



This is a digital copy of a book that was preserved for generations on library shelves before it was carefully scanned by Google as part of a project to make the world's books discoverable online.

It has survived long enough for the copyright to expire and the book to enter the public domain. A public domain book is one that was never subject to copyright or whose legal copyright term has expired. Whether a book is in the public domain may vary country to country. Public domain books are our gateways to the past, representing a wealth of history, culture and knowledge that's often difficult to discover.

Marks, notations and other marginalia present in the original volume will appear in this file - a reminder of this book's long journey from the publisher to a library and finally to you.

### Usage guidelines

Google is proud to partner with libraries to digitize public domain materials and make them widely accessible. Public domain books belong to the public and we are merely their custodians. Nevertheless, this work is expensive, so in order to keep providing this resource, we have taken steps to prevent abuse by commercial parties, including placing technical restrictions on automated querying.

We also ask that you:

- + *Make non-commercial use of the files* We designed Google Book Search for use by individuals, and we request that you use these files for personal, non-commercial purposes.
- + *Refrain from automated querying* Do not send automated queries of any sort to Google's system: If you are conducting research on machine translation, optical character recognition or other areas where access to a large amount of text is helpful, please contact us. We encourage the use of public domain materials for these purposes and may be able to help.
- + *Maintain attribution* The Google "watermark" you see on each file is essential for informing people about this project and helping them find additional materials through Google Book Search. Please do not remove it.
- + *Keep it legal* Whatever your use, remember that you are responsible for ensuring that what you are doing is legal. Do not assume that just because we believe a book is in the public domain for users in the United States, that the work is also in the public domain for users in other countries. Whether a book is still in copyright varies from country to country, and we can't offer guidance on whether any specific use of any specific book is allowed. Please do not assume that a book's appearance in Google Book Search means it can be used in any manner anywhere in the world. Copyright infringement liability can be quite severe.

### About Google Book Search

Google's mission is to organize the world's information and to make it universally accessible and useful. Google Book Search helps readers discover the world's books while helping authors and publishers reach new audiences. You can search through the full text of this book on the web at <http://books.google.com/>









42







O'Connell, Daniel

SHAW'S

AUTHENTICATED REPORT

OF THE

IRISH STATE TRIALS.

**1844.**

DUBLIN:

PRINTED AND PUBLISHED BY HENRY SHAW, STATIONER,  
20, DAME-STREET.



KDK  
104  
.018

1388371-190

## CONTENTS:

	PAGE.
Abstract of Indictment,.....	"
Counsel,.....	"
Array of Panel,.....	"
The Jury,.....	1
Opening of the Pleadings,.....	Ibid.
Address of the ATTORNEY-GENERAL .....	2
Examination of Frederick Bond Hughes,.....	90
"    Mr. Charles Ross,.....	108
"    Mr. John Jackson,.....	133
"    Mr. John Brown,.....	152
"    Mr. Thomas Packer, .....	177
"    Mr. Joseph Annesley,.....	181
"    Mr. John Ulick Macnamara,.....	182
"    Mr. Simpson Steward,.....	192
"    Neal Brown, Esq.,.....	199
"    Mr. James Johnston,.....	20 <sup>0</sup>
"    Mr. John Maguire, .....	206
"    Mr. John Jolly,.....	211
"    Mr. Henry Godfrey, .....	218
"    Henry Twiss,.....	225
"    Patrick Lenihan,.....	226
"    Manus Hughes, .....	230
"    John Taylor,.....	231
"    John M'Cann,.....	232
"    William Thompson,....	235
"    James Walker,.....	236
"    George Despard, Esq.,.....	237
"    John Robinson,....	239
"    James Healy,.....	241
"    James Irvine,.....	252
"    Charles Vernon,.....	Ibid.
Address of the RIGHT HON. R. L. SHIEL, (Q.C. and M.P.) on behalf of	
Mr. John O'Connell,.....	275
"    B. MOORE, ESQ., (Q.C.) on behalf of the Rev. Thomas Tierney,	315
"    J. HATCHELL, ESQ., (Q.C.) on behalf of Mr. Ray,.....	330
"    G. FITZGIBBON, ESQ., (Q.C.) on behalf of Doctor Gray, ...	342

# CONTENTS.

	PAGE.
Address of J. WHITESIDE, ESQ., (Q.C.) on behalf of Mr. C. Gavan Duffy,	375
„ F. M'DONOUGH, ESQ., (Q.C.) on behalf of Mr. Barrett,.....	439
„ W. HENN, ESQ., (Q.C.) on behalf of Thomas Steele, Esq.....	455
„ DANIEL O'CONNELL Esq. (M.P.) on behalf "of the People of Ireland," .....	466
EVIDENCE FOR THE TRAVERSERS .....	516
Examination of F. W. Conway, Esq., proprietor of the Dublin Evening Post,	517
„ James Perry, (a Quaker,).....	518
„ William Cosgrave,.....	524
„ Mr. Charles Vernon, of the Stamp Office,.....	Ibid.
Documents read by Clerk of the Crown, .....	528
Charge to the Jury of the Right Hon. Chief Justice Pennefather,.....	615
Bringing in of Verdict by the Jury, (Saturday night).....	663
Amended Verdict, (Monday).....	672



# ABSTRACT

## OF THE

# INDICTMENT.

---

### FIRST AND SECOND COUNTS.

For unlawfully and seditiously conspiring to raise and create discontent and disaffection amongst the Queen's subjects, and to excite such subjects to hatred and contempt of, and to unlawful and seditious opposition to, the government and constitution; and to stir up jealousies, hatred, and ill-will between different classes of her Majesty's subjects, and especially to promote, amongst her Majesty's subjects in Ireland, feelings of ill-will and hostility against her Majesty's subjects in other parts of the united kingdom, especially in England; and to excite discontent and disaffection amongst divers of her Majesty's subjects serving in the army; and to cause, and aid in causing, divers subjects unlawfully and seditiously to meet and assemble together in large numbers, at various times and at different places within Ireland, for the unlawful and seditious purpose of obtaining, by means of the intimidation to be thereby caused, and by means of the exhibition and demonstration of great physical force at such meetings, changes and alterations in the government, laws, and constitution as by law established; and to bring into hatred and disrepute the courts by law established in Ireland for the administration of justice, and to diminish the confidence of her Majesty's subjects in the administration of the law therein—with intent to induce her Majesty's subjects to withdraw the adjudication of their differences with, and claims upon, each other from the cognisance of the courts of law, and subject the same to the judgment and determination of other tribunals, to be constituted and contrived for that purpose.

### THIRD COUNT.

For unlawfully and seditiously conspiring to raise and create discontent and disaffection amongst the Queen's subjects, and to excite such subjects to hatred and contempt of, and to unlawful and seditious opposition to the government and constitution; and to stir up jealousies, hatred, and ill-will

#### ABSTRACT OF INDICTMENT.

between different classes of her Majesty's subjects, and especially to promote amongst her Majesty's subjects in Ireland feelings of ill-will and hostility against her Majesty's subjects in other parts of the United Kingdom, especially in England; and to excite discontent and disaffection amongst divers of her Majesty's subjects serving in the army; and to cause, and aid in causing, divers subjects to meet and assemble together in large numbers at various times and at different places, within Ireland, for the unlawful and seditious purpose of obtaining by means of the exhibition and demonstration of great physical force at such meetings, changes and alterations in the government laws and constitution as by law established; and to bring into hatred and disrepute the courts by law established in Ireland for the administration of justice, and to diminish the confidence of her Majesty's subjects in the administration of the law therein—with intent to induce her Majesty's subjects to withdraw the adjudication of their differences with, and claims upon, each other from the cognisance of the courts of law, and subject the same to the judgment and determination of other tribunals to be constituted and contrived for that purpose.

#### FOURTH COUNT.

For conspiring to raise and create discontent and disaffection amongst the Queen's subjects, and to excite such subjects to hatred and contempt of, and to unlawful and seditious opposition to the government and constitution; and also to stir up jealousies, hatred, and ill-will, between different classes of the subjects, and especially to promote amongst the subjects in Ireland, feelings of ill-will and hostility towards the subjects in other parts of the United Kingdom, and especially in England; and to cause, and aid in causing, divers subjects to meet and assemble in large numbers at various times and different places, in Ireland, for the unlawful and seditious purpose of obtaining, by means of the intimidation to be thereby caused, and by means of the exhibition and demonstration of great physical force at such meetings, changes in the government and constitution as by law established.

#### FIFTH COUNT.

For conspiring to raise and create discontent and disaffection amongst the subjects, and to excite the subjects to hatred and contempt of, and unlawful and seditious opposition to the government and constitution; and also to stir up jealousies, hatred, and ill-will, between different classes of the subjects, and especially feelings of ill-will and hostility against her Majesty's subjects in England.

#### SIXTH COUNT.

For conspiring to cause, and aid in causing, divers subjects to meet and assemble in large numbers, at various times, and at different places in

#### **ABSTRACT OF INDICTMENT.**

Ireland, for the unlawful and seditious purpose of obtaining, by the exhibition of great physical force at such meetings, changes and alterations in the government laws and constitution as by Law established.

#### **SEVENTH COUNT.**

For conspiring, to cause, and aid in causing, divers subjects of the Queen to meet in large numbers, at various times and at different places in Ireland, for the unlawful and seditious purpose of obtaining, by means of the intimidation to be thereby caused, and by means of the exhibition of great physical force at such meetings, changes and alterations in the government, laws, and constitution of this realm as by law established; and especially by the means aforesaid, to bring about and accomplish a dissolution of the legislative union now subsisting between Great Britain and Ireland.

#### **EIGHTH COUNT.**

For conspiring to bring into hatred and disrepute the tribunals by law established in Ireland for the administration of justice, and to diminish the confidence of her Majesty's subjects in the administration of the law therein, with intent to induce the subjects to withdraw the adjudication of their differences with, and claims upon each other, from the cognisance of the tribunals by law established, and to submit the same to the judgment and determination of other tribunals, to be constituted and contrived for that purpose.

#### **NINTH COUNT.**

For conspiring to bring into hatred and disrepute the tribunals by law established in Ireland for the administration of justice; to diminish the confidence of her Majesty's subjects in Ireland in the administration of the law therein; and to assume and usurp the prerogative of the crown in the establishment of courts for the administration of the law.

#### **TENTH COUNT.**

For conspiring to bring into hatred and disrepute the tribunals by law established in Ireland, for the administration of justice; and to diminish the confidence of her Majesty's subjects in Ireland, in the administration of the law therein.



## ABSTRACT OF INDICTMENT.

### ELEVENTH COUNT:

For conspiring to cause and procure large numbers of persons to meet together in divers places, and at divers times, in Ireland ; and by means of unlawful, seditious, and inflammatory speeches and addresses to be made and delivered at the said several places on the said several times, and also by means of publishing, and causing to be published to and amongst her Majesty's subjects divers unlawful and seditious writings and compositions, to intimidate the lords spiritual and temporal, and the commons of the Parliament of the United Kingdom, and thereby to effect and bring about changes and alterations in the laws and constitution of this realm as now by law established.

# STATE TRIALS,

JANUARY 15, 1844.

The Chief Justice, and Judges Burton, Crompton, and Perrin, took their seats on the bench at five minutes past ten o'clock.

The Attorney General, Solicitor General, Sergeant Warren, Messrs. Brewster, Martley, Bennett, Freeman, Q. C., Holmes, Smyly, Baker, and Napier, appeared for the crown.

The following counsel attended for the traversers :—

Messrs. Moore, Q. C., Sheil, Whiteside, M'Donough, Monahan, Fitzgibbon, Henn, Hatchell, Sir Colman O'Loughlen, and Messrs. O'Hagan, Close, Clements, M'Carthy, Moriarty, O'Hea, and Perrin.

The Crown Solicitor and his assistants, and Messrs Mahony, Cantwell, Gartlan, and Ford, the attorneys for the traversers were also in attendance.

The names of the traversers having been called over,

Mr. Cantwell—My lords, I was attorney for the Rev. Peter James Tyrrell, and I have to state to you that the reverend defendant has been summoned before the judge of judges. His soul and body are alike beyond the power of this court.

Mr. O'Connell and the other traversers entered the court about half past ten o'clock.

Clerk of the Crown—Crier, make proclamation for a jury. Gentlemen, answer to your names.

Several of the persons whose names were in the panel applied to be exempted on the ground of ill health, and gave evidence to support their application.

The Clerk of the Crown then proceeded to swear the jury, the traversers being all in court. Mr. O'Connell sat near his counsel, and wore his wig and gown. The following traversers sat at the side bar :—John O'Connell, M.P.; Thomas Steele, Dr. John Gray, Richard Barrett, T. M. Ray, Rev. Mr. Tierney, and Charles Gavan Duffy.

Clerk of the Crown—The book to James Hamilton, of Ormond quay.

Sir Colman O'Loughlen handed in a challenge to the array on the part of Daniel O'Connell, inasmuch as the names of sixty persons declared to be qualified by the Recorder on the revision of the jurors' list were omitted.

Challenges were given in on the part of the several other traversers.

The Attorney General having required time to consider what course he would take, retired from court with the crown counsel. On their return into court he demurred to the challenge.

Sir Colman O'Loughlen was heard in support of the challenge.

Mr. Fitzgibbon, Q.C., followed on the same side. He proceeded to say that the court had decided that time should not be occupied by hearing counsel for each of the traversers, and if anything was particularly plain

## STATE TRIALS.

in the jury law, it was evident from the anxiety the legislature evinced in framing the act, that special jurors should be fairly and properly constituted, so as to satisfy every individual in the country that justice would be fairly administered. The first thing the act required was, for the collectors to furnish proper lists to the clerk of the peace, and these lists were to be left for three weeks open for public inspection, that, names improperly placed on them should be struck out, and those omitted supplied. These lists should contain the names of all persons qualified, as the act directed, and that act contemplated that every man, woman, and child in the community was interested in their proper revision. We have had here instances of two persons who have been taken off this small panel for an error in their names, of which we are not accused, not because they are not the individuals summoned, but because their names are wrongly stated in the list, which shows that every person ought to have a correct copy of the list. The Attorney General has said that a mistake in this general list, if it was not well and properly constituted, which had not been done in this case, which has not been caused by the crown, should not affect the proceedings. Does he mean that this averment is any answer to the challenge? Would it be an answer if it was put on parchment. Even so I do not think it would. It has been said that there is some fraud on the part of whoever omitted those names, but the traversers do not shrink from endeavouring to find out who those parties are. If he (the Attorney General) chose to do so, he had an opportunity of trying to discover who those parties were, and whether there was any fraud committed or not, and it is no answer to our challenge that the fraud has not been committed by the sheriff or the crown. All persons accused of crime are entitled to be tried by a jury legally constituted *in omnibus*—it is no answer to give a person about to be tried, to say, "it has been illegally done, no doubt, but your accusers are no parties to it." Is that any answer to any man of common sense? It is, in my mind, no answer to him, nor are the crown to take advantage of a fraud which has been committed. Some individual, I care not who, has been dexterous enough to take away a portion of the list revised by the Recorder; it may be his footman—and, in consequence, 59 names have been omitted; near a tithe of the whole panel. I'll assume that it has been done by the Recorder's footman. Now what the Attorney General says is, if so he ought to be punished; but what does the law say? It says to the Recorder—you shall cause a correct general list to be made out and delivered; it does not say by what means, but you (the Recorder) shall do it. The question is did he cause that to be done? It is plain he did not; some person unknown to the crown, I won't say unknown to the Recorder, has suppressed a number of those names. He (the Recorder) should not have left those lists accessible to any one who would not take as much care of them as he would himself, but he has left them to the mercy of a person who has decimated them, by taking away one tithe of them. He could conceive many excuses he could give for not doing it. He might say that he was in a hurry, that he was going to London, that he could not stay here until he did his duty, but at all events he did not do his duty—at all events, the list he caused to be made out was not the list the law said he ought to cause to be made out. Now, he was in a hurry, or he was blind, he was

#### ARRAY OF PANEL.

careless, or he was not. Suppose they had him there on the table, or at the bar of that court under prosecution by the Attorney General for this act of his leaving out a tithe of the names, might he not say a portion of those names were in cramp writing, and when he came to the names that he could not read, that he skipped them over, and was in too great a hurry to go look for his glasses (laughter)—that he was not guilty of fraud, but of negligence; but could any negligence be more gross than that on the part of the Recorder, when he got back that list from his servant not to compare it with the list he had revised, and satisfy himself that he clearly, fairly, and honestly had done his duty? The traversers attended at the revision, which was a matter of publicity, and which was a matter to be done only in open court, where they had liberty to attend, in pursuance of the privilege which the law gave them. As soon as the list was placed under their eyes, and as soon as they had an opportunity of knowing whether it was properly or improperly constructed, they forthwith proceeded to compare it with the notes they had previously taken, and the very moment they discovered that the list had been fraudulently tampered with, or accidentally, at all events, wrongly framed, that very hour they, *in limine*, gave a distinct and express notice, as averred in the challenge, and not denied, to those acting for the crown, that the list was fraudulently and illegally constructed, and objecting to any further proceedings, and to having a jury taken from that list until it had been completed. Let me suppose that a crown prosecutor or prosecutors are desirous for nothing more in the world than plain and simple justice; and abhorring nothing more than an unjust conviction of any innocent man—abhorring nothing more especially than the hunting into a prison a fellow-subject, should they not be desirous, at any stage or step of those proceedings, particularly if there be fraud alleged, and should they not gladly embrace the opportunity given them of immediately correcting that fraudulent list? It was not too late to do it. It was a thing very easy of accomplishment—it was only to discover who, or by whom, or by what accident—if there was fraud committed, and that those names were omitted from that list. What had they to do but to go back to the Recorder? The materials were there to correct the list. He had the original lists, or ought to have them, and nothing could be easier than to add the names that were omitted. What could be fairer than that it should be required of the crown to add them? The traversers were willing to consent that they should be added in any legal way, and why should not the crown be also willing that this fraud should be effectually and properly corrected, and at all events that those traversers should not have cause to complain of this list? They had only then to adjourn till the next day, and inquire if those fifty-nine persons that were omitted were qualified persons, and if he adjudged them to be qualified persons they could put fifty-nine cards into the box and let the jury again be drawn. That was substantially proposed by the traversers, but not agreed to by the crown, and this decimated list was acted upon and the jury taken from it, thus excluding the traversers from the chance of having one in the jury, out of the 69, who might be a most honest and efficient jurymen. Did the traversers stop there? No, again they made a motion to that court, submitting to the discretionary and equitable jurisdiction of the court the whole case, and that with notice to the crown. They met the crown here again; they

## STATE TRIALS.

called on this court to have this fraud or accident, whichever it was, rectified; the crown came there to resist them, and called upon the court not to allow them to meddle with the fraudulent list, and the court agreed with them; and what remedy had the traversers, suppose the list was so cut up as to reduce it to twelve of the greatest partisans in the community? And suppose the sheriff thought that was a jury list from which the special jury should be taken, was it to be said that a man was first to be tried, next hanged, and thirdly, that he had his remedy against the fraudulent persons who did that? Did not every argument against that challenge go that full length---was not that the whole scope of the argument of the other side---that they might have a remedy against those unknown persons who committed the fraud, and they could have none against the Recorder, who was guilty of nothing but negligence? Was the law so monstrously unjust or revolting to every principle of humanity as to say a fraud of this description committed in some dark hole by some unknown person, or by any other individual in the community, who had the duty upon him, to cause the proper list to be constructed; was it, he repeated, for a moment to be alleged in a court of justice, that a man shall to be convicted by a jury taken from a panel so concocted, though he may be innocent in the eyes of every man in the community, except the twelve partisans on his trial---that on that conviction he might undergo sentence of death, and that the law has no remedy for correcting that until a legal murder is committed. The Attorney General said there was no averment in the challenge that the Recorder did not hand a list to the clerk of the peace. To be sure there was not. Did he suppose they would be insane enough to aver it; but they allege that what he did hand him was an illegal list. The list, if not framed by the Recorder, was framed by some one by whom it should not be framed. Then he had the Attorney General in this plain dilemma, that either the Recorder caused this fraudulent list to be made out, or that it was not a list made out by him at all. If it was not a list made out by him, what right had the Attorney General to take a jury from it? The duty of the Recorder was to make out a perfect list, and they alleged that he did not do that duty, and plainly and distinctly they alleged that the crown had taken a jury from a list either made out imperfectly by the Recorder or made out by some unknown person, and a fraudulent list, and that they did so, being duly apprised that it was not a list the Recorder ought to have signed, and that with notice given them to that effect they forced it upon the traversers. Let the court look to the 35th section of the act of parliament, and they would see whether to the end it did not provide the means of rectifying those lists when they were defective. The legislature contemplated the probability as well as the possibility of collectors fraudulently leaving out of the lists, through the influence of individuals, names of those liable to serve, and provided against that by a penal remedy. The act of parliament was not so absurd as to rest satisfied, after being provided for the conviction of those who were guilty of the fraud of the wilful omission of names. The views and intentions of the legislature were very properly not confined to the conviction of the guilty parties, for, after having very justly provided for their punishment, this act went on to show that measures should be taken in order to the restoration of the names that had been thus fraudulently and illegally omitted. It was absurd to suppose that it was the intention of the

#### ARRAY OF PANEL.

legislature that the remedies suggested in the section he referred to should only apply to a certain class of cases, and not to all cases indiscriminately where a similar occurrence had taken place. The legislature did not presume by anticipation that any officer would be guilty of a dereliction of duty, but they provided for the punishment of those who were thus guilty, and by the 36th section they evinced an equal anxiety to have the omission supplied as to have the persons who had been guilty of it brought to punishment. The traversers in the present application sought nothing more than that to which in law and equity they were strictly entitled. They had failed in their motion to have the list sent back for amendment to the Recorder, and now that by the misconduct of some person or persons over whom they had no control, were they to be hurled down the gulph, and solaced for destruction by the reflection that they had, forsooth, their remedy against the parties by whom they had been aggrieved? To this, in point of fact, did the proposition of the Attorney General amount, when it was stripped of its vague pretences, and exposed in its natural deformity, as it ought to be, to the cool judgment and common sense of mankind. It was idle to talk in such a strain. The traversers had no redress if the present challenge was not admitted by the court. A challenge of the array was a privilege which the law of the land conceded to a traverser, and it meant nothing more or less than a simple objection taken to the jury at the proper moment, and before the jurors were put upon their oaths, to the effect that the panel had not been properly constructed. Was it nothing to a man who was entitled, as by the right of a free citizen, to be tried before a legally constituted tribunal—was it nothing to him that the jury that was to sit in judgment upon him, was not thus legally constituted; or when he attributed such fact to the fraud of some unknown *employe*, what satisfaction was it to tell him that there was no fraud in the matter, and that it all resulted from neglect or accident? But he trusted that nobody in that court or out of it would, for an instant, misconstrue his motives, or misinterpret the feeling and intention with which he offered those observations. Let it not be, for a moment, imagined that in challenging the present array he intended to allege or insinuate that any one of the gentlemen who were then assembled in the jury-box was not as fair, as honourable; and as upright a man as any that could be found in the universe? He thought it necessary, emphatically, to guard himself against any such imputation. The respectability of the jurors, now in court, was not the question now under discussion. He did not allege nor entertain the slightest suspicion of that respectability, nor did he mean to imply that there was a man amongst them by whom he would not himself be happy to be tried, if he were to-day in the unfortunate position of the traversers; but he was contending for a great principle, and was standing up for what was the inherent right of every British subject without sectarian or political differences—the right to be tried by a tribunal constituted in strict accordance with the law and British constitution. Without suggesting, therefore, in the remotest degree, that the case would not be tried honestly and with the strictest propriety by the gentlemen at present in the box, he begged leave most respectfully, but most earnestly, to urge upon the court the expediency of admitting the present challenge and quashing the demurrer.

The Solicitor General replied.

## STATE TRIALS.

Mr. Moore, Q.C., then said that he was instructed on the part of the traversers to enter into a consent that the lists shall be sent back to the Recorder, in order that he may insert the names which have been improperly omitted, and that then a new special jury should be struck at once, and the trial proceeded with.

The Attorney General—I object altogether to the proposal of my learned friend. I am astonished that he would make a proposal which he ought to know could not possibly be complied with; there is no power under the statute by which it could be done; the alteration would affect every proceeding taken during the whole year, and he must have known that it was illegal, and that if any person was tried under that new list it would be erroneous, and a party unbound by the consent could object to the proceedings. I should not be fit to hold my office for one hour if I were to permit this illegal course to be taken.

Mr. Moore, Q.C.—The Attorney General has very grossly misconceived the proposition which I made. I am surprised he would have thought that I should exhibit such monstrous ignorance as to make a proposition, the effect of which would be such as he stated. I disclaim all intention of the kind. I made a proposition in perfect good faith, in consequence of instructions I received from my clients. I will not reply to his observation in reference to myself; but in making my proposition I did that which I conceive could be done without displaying that degree of impropriety or ignorance of my profession which he has thought proper to allude to (loud applause.)

The Attorney General—My lords, if again in the course of these proceedings, any persons in this court shall conduct themselves in the manner we have just heard, I will beg leave to request that your lordships will order the gallery to be cleared. The learned counsel on the other side called upon me to do that which is illegal.

[The cheer which called forth this observation came principally from the bar.]

Mr. Moore—Certainly not.

The Attorney General—What he did call upon me to do was this; to consent to the jurors' book being amended by the Recorder; and I say that cannot be legally done. I said it would affect the legality of every judicial proceeding of this nature in 1844, and I reiterate that assertion.

The Chief Justice delivered judgment. He said the majority of the court in this case were of opinion that the demurrer must be allowed, and consequently that the challenge must be overruled.

Judge Perrin said, he had carefully considered the act of parliament and its provisions since the motion which had been before the court on Friday, and applying its provisions to the motion which appeared upon the challenge here put in, he was under the disadvantage of not coming to the conclusion to which the Lord Chief Justice and his brethren had come to. He thought it a subject of considerable doubt that the challenge ought to be allowed. By the act of parliament the collectors were to make out, in alphabetical order, two lists of all qualified persons in their districts, and to deliver them to the clerk of the peace, who shall keep them for public inspection a certain time, and at the special sessions fixed for the revision and correction of those, by the insertion of the proper person, or the

#### ARRAY OF PANEL.

omission of an improper person, at those special sessions fixed for that purpose, when every such list shall be duly corrected by the justices in counties at large, and by the Recorder in the city of Dublin, and shall be allowed and signed by them, or three of them, he or they shall cause a general list. He (Judge Perrin) would pause for a while here. The only thing bearing upon this part of the argument was, that clause which showed that an error in the judge's book might be corrected by authenticated documents, not one respecting any matter which had been the subject of conversation either by the Recorder or the justices. What did this challenge say? It said, that after the Recorder had duly revised, examined, and corrected, the parochial list—that after he had signed them, that he did not deliver, or cause to be delivered, a general list of all those names, arranged according to rank or property, but that he omitted to do so. And, on the contrary, so far from that being done, some person fraudulently, as alleged in some of the challenges, “to the prejudice of the traversers,” in one averment that was omitted, made out a list omitting sixty names purporting to be in the general list, and from which fraudulent and imperfect list the jury book was made out, omitting those names. Now this is not a case of allegation that by error or omission a mistake occurred in making out the lists, and that some names were thereby accidentally omitted. The charge here is not one of unintentional error; there is a charge of omission against some person unknown, by whose act that list has been falsified to the extent of omitting sixty names. The Attorney General very properly insisted that the matters not contravened or met must be taken to be admitted, and he insisted, I think justly, that he was at liberty to do so on that; but it must be considered that the Recorder handed in a list which was a defective list, I am satisfied that he knew no more about it than I did. I think it would be monstrous to hold that there was even a shadow of suspicion upon him; there is nothing to warrant or sustain it. It must, then, be taken that the Recorder was imposed upon by the person, whoever he was, that was appointed to make out that list, and that he had no more cognisance of it than any body here. Is that general list to be taken as authenticated by the Recorder, or as an exemplification or voucher of the correctness of what he hands in? He is no more answerable for that in my mind than the person that brought it. It matters not whether he hands it in himself, or sends it in, for he must be taken to be ignorant of the omission; but the injury is not the less to the parties who want a full jury—the loss, as far as they are concerned, is as great as if the Recorder were conscious of it. It appears to me that this challenge maintains that this was not in truth a general list made from the other lists—made perfectly and fully from the other lists—which it ought to be, in order to constitute a foundation for the jury book. It has been observed that this act of parliament was framed with great care, and for a most important object—the securing of proper and competent jurors, and leaving as little in the power of particular officers as could be left to them. I think it had in view a much more important object than what may be called the mere finality of its terms. If we hold that an alteration or suppression of this sort made by those persons who must be employed to do a particular duty, and, unknown to the officer, is incurable, and not to vitiate the act purporting to be done by the judge or superior officer, I am at a loss to understand



## STATE TRIALS.

what security there is for the purity of the jurors' book. The correct one may be mutilated and another substituted, and I cannot imagine that it would be contended that because it was handed in by the officer, that it should be regarded as a true copy, and the real foundation from which the jurors' book ought to be made out. It seems to me that if such a thing was practised, and that it came to the ears of the Justice or Recorder that not only the first thing he would do, but the first thing he would be bound to do, would be to go to the sheriff with the real list and call upon him to repudiate the fabricated one, and to correct his book according to the true one. There seems to be some difficulty suggested as to whether he could do that. It strikes me, in my humble judgment, that it is not only what he would do, but what it would be his bounden duty to do. Taking another view of the case—suppose the sheriff in framing his special jury list had marked off names from the general list for his clerk, and that he omitted many of those names, and that the special jury list was framed with the omission of those names, and that the omission was not discovered until the forty-eight names were about to be drawn—it does strike me that would be a cause for challenging the array. On the same principle I may suppose a *Nisi Prius* trial in the country for which the sheriff returns a *distringas* to this court, and here it lies for some days. Suppose that an under-officer or clerk of the court was to alter the names on that *distringas*, and that when it went down to the country for the first time the alteration was discovered, surely that would be a ground for challenging the array. It might be objected against the present challenge that it was novel, but its novelty arose from this, that the act of parliament was one of recent date. Before the passing of that statute the high sheriff was uncontrollable in his duty. He might, if he chose, return whom he liked for his jury; but the statutable provision confined his power of selection to a particular jury-book, to be taken from a particular list, and if the provisions of the law, in this respect, were violated, even though there was no fraud in question, it still came within the principle upon which the challenge of array rested, and was originally founded. Much had been said about the inconvenience which would result from admitting the present challenge, as thereby an embarrassing precedent would be established. But he did not think that they (the judges) ought to regard the consequences of their decision, except in as far as they made them studious and anxious that their decisions should be well-founded, and rest upon sound principles of law. Further than this, however, they were not to look. It was their duty to decide all legal questions to the best of their judgment and ability; and if any inconvenience resulted, it was no consideration of theirs, but must be remedied by those whose province it was to make laws. But he was inclined to think that the inconvenience would not be so great in the present instance as was apprehended; for if errors existed in the jury-book, there could be no objection on the score of inconvenience to amend them by making the jury-book conformable to the true and general list constructed from the parish lists. Those were the grounds on which he felt himself compelled to come to a different conclusion from his brethren; but he was bound to admit that he did so not without considerable doubt as to the correctness of his opinions.

The court adjourned to ten o'clock next morning.

# STATE TRIALS,

JANUARY 17TH, 1844.

The following gentlemen answered to their names and were sworn as the jury:—

JAMES HAMILTON, Foreman,  
EDWARD ROPER,  
EDWARD CLARKE,  
FRANCIS FAULKNER,  
JOHN CROKER,  
HENRY FLYNN,

HENRY THOMPSON,  
ANSON FLOYD,  
JOHN RIGBY,  
ROBERT HANNA,  
WILLIAM LONGFIELD, and  
WILLIAM ORD.

The gentlemen who were not sworn having left the box,

The Clerk of the Crown said—Gentlemen of the jury, the traversers at the bar, Daniel O'Connell, John O'Connell, Thomas Steele, Thomas Matthew Ray, Charles Gavan Duffy, John Gray, Richard Barrett, and Thomas Tierney, stand indicted for having, on the 13th of February last, in the parish of St. Mark, in the City of Dublin, entered into a conspiracy in the manner as set out in the indictment. The traversers have severally pleaded not guilty.

Mr. Napier then proceeded to open the pleadings. He said the indictment in this case contained eleven counts. The first count stated that the several traversers, together with divers other persons unknown, did unlawfully and maliciously conspire to excite discontent amongst her Majesty's subjects; hatred and jealousy amongst different classes, and discontent and disaffection in the army; also contempt of the established tribunals for the administration of justice; also conspired to create changes in the government and constitution of the country, and to bring them into contempt. The first count then set out the several overt acts which were done in furtherance of the conspiracy. The second count was the same as the first, omitting the overt acts. The third set out the meetings for seditious and unlawful purposes; and the fourth the conspiracy to excite discontent and disaffection in the army. The fifth, the conspiracy to bring into hatred and contempt her Majesty's government; and the sixth, to procure changes in the government and constitution by means of intimidation. The seventh was the same as the sixth, adding the charge of attempting to procure a dissolution of the legislative union. The eighth, ninth, and tenth, set out the attempt to disparage the tribunals constituted for the administration of justice; and the eleventh by means of intimidation, causing large numbers of persons to assemble, and having addressed them in seditious and inflammatory speeches; also the publication of matter intended to affect changes in the constitution.

The following is a correct abstract of the indictment:—

“The traversers stand indicted for having conspired and confederated together to raise and create discontent and disaffection amongst her Majesty’s subjects, and to excite them to hatred and contempt of the government and constitution of the realm as by law established, and to unlawful and seditious opposition to the said government and constitution, and to stir up hatred, jealousy, and ill-will between different classes of her Majesty’s subjects, and especially to promote amongst her Majesty’s subjects in Ireland, feelings of ill-will and hostility towards and against her Majesty’s subjects in England; and to excite discontent and disaffection in the army; and to cause large numbers of persons to meet together at different times, and at different places, for the unlawful purpose of obtaining by means of the intimidation to be thereby created, and by means of the exhibition and demonstration of great physical force at such meetings, changes and alterations in the government, laws, and constitution of this realm, as by law established; and particularly by those means to bring about and accomplish a dissolution of the legislative union between Great Britain and Ireland; and also by means of inflammatory and seditious speeches and addresses, and by seditious publications, to intimidate parliament, and thereby bring about changes and alterations in the laws and constitution of this realm, as now by law established; and to bring into hatred and disrepute the tribunals established for the administration of justice, and to diminish the confidence of the Queen’s subjects in the administration of the law therein; and to assume and usurp the prerogative of the crown in the establishment of courts for the administration of the law.”

The Attorney-General then rose to address the jury, and said they had been empannelled on the present occasion to perform the important duty of deciding upon the guilt or innocence of the several traversers arraigned upon the partly read indictment. It was not necessary for him (the Attorney-General) to impress on their minds the necessity of giving their anxious and undivided attention to the momentous questions which would be brought before them. His learned friend Mr. Napier, had already stated to them the charge which had been brought forward against the several traversers; but in order to impress it upon their minds, and that they might be enabled to understand the case as it proceeded, he would take leave again to call their attention to the general nature of the charge brought against the defendants. The traversers stand indicted for having conspired and confederated to create disaffection and discontent, and to create hatred against the constitution and government as by law established, and to stir up ill-will among various classes, especially towards her Majesty’s subjects in England, to render the army disaffected, and by unlawful means and demonstrations of physical force to alter the laws and constitution of this country as at present established, and by means of these proceedings dissolve the legislative union between Great Britain and Ireland; also discontent and want of confidence in the administration of the law, and with usurping and assuming the prerogatives of the crown in the formation of courts for the administration of law though the country. He (the Attorney-General) wished to bring under the notice and

consideration of the jury the precise nature of these charges. He thought it would be convenient and proper before he opened the facts of the case, that he should make some observations relative to the law of conspiracy; by doing so it would enable the jury to apply the observations he would have to make, and enable them to understand more distinctly the case in all its bearings as he proceeded in the statement of it; and, of course, in stating the law, he stated it in the presence of the court, the jury bearing in mind, that they were not to take the law from him, nor from the counsel for the traversers, except so far as it might meet with the concurrence and approval of their lordships. With respect to the law of conspiracy, it was a crime which consisted either in a combination and agreement by persons to do some illegal act or acts, or to effect a legal purpose by illegal means; and a confederacy to effect either an illegal object, or even a perfectly legal object by unlawful means, is, in contemplation of law, criminal, and amounted to a conspiracy.

This definition was given of the crime by Lord Denman and the other judges, in the case of the *King v Jones*, in 4 Barnwall and Adolphus, 349 and 350, Mr. Justice Parke stating that the indictment ought to have shown a conspiracy to do an unlawful act, or to do a lawful act by unlawful means. The same principle and rule of law was laid down by the late Chief Justice Bushe, in that court, in the case of the *King v Forbes* and others, in Mr. Green's (the present Solicitor General) report. Chief Justice Bushe, in giving the judgement of the court, stated that, "where two or more persons confederate together for the effecting of an illegal purpose, or to effect a legal purpose by unlawful means, even although such purpose should never be effected, the merely confederating constitutes the crime, though the object be not effected." In a more recent case the *Queen v Murphy*, 8, Carrington and Payne, page 310, the law of conspiracy was described by Mr. Justice Coleridge. He says—"You have been properly told that this being a charge of conspiracy, if you are of opinion that the acts, though done, were done without common concert and design between these two parties, the present charge cannot be supported. On the other hand, I am bound to tell you, that although the common design is the root of the charge, it is not necessary to prove that these two parties came together and actually agreed in terms to have this common design, and to pursue it by common means, and so to carry it into execution. This is not necessary, because in many cases of the most clearly established conspiracies there are no means of proving any such thing, and neither law nor common sense requires that it should be proved. If you find that these two persons pursued by their acts the same object, often by the same means, one performing one part of an act and the other another part of the same act, so as to complete it, with a view to the attainment of the object which they were pursuing, you will be at liberty to draw the conclusion that they have been engaged in a conspiracy to effect that object.

The question you have to ask yourselves is—Had they this common design, and did they pursue it by these common means, the design being unlawful? I ought also to tell you that by finding the defendants guilty you will not (as has been said) affect the right of petitioning. It is not wrongful to assemble in a public meeting to petition parliament against

The following is a correct abstract of the indictment :—

"The traversers stand indicted for having conspired and confederated together to raise and create discontent and disaffection amongst her Majesty's subjects, and to excite them to hatred and contempt of the government and constitution of the realm as by law established, and to unlawful and seditious opposition to the said government and constitution, and to stir up hatred, jealousy, and ill-will between different classes of her Majesty's subjects, and especially to promote amongst her Majesty's subjects in Ireland, feelings of ill-will and hostility towards and against her Majesty's subjects in England; and to excite discontent and disaffection in the army; and to cause large numbers of persons to meet together at different times, and at different places, for the unlawful purpose of obtaining by means of the intimidation to be thereby created, and by means of the exhibition and demonstration of great physical force at such meetings, changes and alterations in the government, laws, and constitution of this realm, as by law established; and particularly by those means to bring about and accomplish a dissolution of the legislative union between Great Britain and Ireland; and also by means of inflammatory and seditious speeches and addresses, and by seditious publications, to intimidate parliament, and thereby bring about changes and alterations in the laws and constitution of this realm, as now by law established; and to bring into hatred and disrepute the tribunals established for the administration of justice, and to diminish the confidence of the Queen's subjects in the administration of the law therein; and to assume and usurp the prerogative of the crown in the establishment of courts for the administration of the law."

The Attorney-General then rose to address the jury, and said they had been empannelled on the present occasion to perform the important duty of deciding upon the guilt or innocence of the several traversers arraigned upon the partly read indictment. It was not necessary for him (the Attorney-General) to impress on their minds the necessity of giving their anxious and undivided attention to the momentous questions which would be brought before them. His learned friend Mr. Napier, had already stated to them the charge which had been brought forward against the several traversers; but in order to impress it upon their minds, and that they might be enabled to understand the case as it proceeded, he would take leave again to call their attention to the general nature of the charge brought against the defendants. The traversers stand indicted for having conspired and confederated to create disaffection and discontent, and to create hatred against the constitution and government as by law established, and to stir up ill-will among various classes, especially towards her Majesty's subjects in England, to render the army disaffected, and by unlawful means and demonstrations of physical force to alter the laws and constitution of this country as at present established, and by means of these proceedings dissolve the legislative union between Great Britain and Ireland; also discontent and want of confidence in the administration of the law, and with usurping and assuming the prerogatives of the crown in the formation of courts for the administration of law though the country. He (the Attorney-General) wished to bring under the notice and

consideration of the jury the precise nature of these charges. He thought it would be convenient and proper before he opened the facts of the case, that he should make some observations relative to the law of conspiracy; by doing so it would enable the jury to apply the observations he would have to make, and enable them to understand more distinctly the case in all its bearings as he proceeded in the statement of it; and, of course, in stating the law, he stated it in the presence of the court, the jury bearing in mind, that they were not to take the law from him, nor from the counsel for the traversers, except so far as it might meet with the concurrence and approval of their lordships. With respect to the law of conspiracy, it was a crime which consisted either in a combination and agreement by persons to do some illegal act or acts, or to effect a legal purpose by illegal means; and a confederacy to effect either an illegal object, or even a perfectly legal object by unlawful means, is, in contemplation of law, criminal, and amounted to a conspiracy.

This definition was given of the crime by Lord Denman and the other judges, in the case of the *King v Jones*, in 4 Barnwall and Adolphus, 349 and 350, Mr. Justice Parke stating that the indictment ought to have shown a conspiracy to do an unlawful act, or to do a lawful act by unlawful means. The same principle and rule of law was laid down by the late Chief Justice Bushe, in that court, in the case of the *King v Forbes* and others, in Mr. Green's (the present Solicitor General) report. Chief Justice Bushe, in giving the judgement of the court, stated that, "where two or more persons confederate together for the effecting of an illegal purpose, or to effect a legal purpose by unlawful means, even although such purpose should never be effected, the merely confederating constitutes the crime, though the object be not effected." In a more recent case the *Queen v Murphy*, 8, Carrington and Payne, page 310, the law of conspiracy was described by Mr. Justice Coleridge. He says—"You have been properly told that this being a charge of conspiracy, if you are of opinion that the acts, though done, were done without common concert and design between these two parties, the present charge cannot be supported. On the other hand, I am bound to tell you, that although the common design is the root of the charge, it is not necessary to prove that these two parties came together and actually agreed in terms to have this common design, and to pursue it by common means, and so to carry it into execution, This is not necessary, because in many cases of the most clearly established conspiracies there are no means of proving any such thing, and neither law nor common sense requires that it should be proved. If you find that these two persons pursued by their acts the same object, often by the same means, one performing one part of an act and the other another part of the same act, so as to complete it, with a view to the attainment of the object which they were pursuing, you will be at liberty to draw the conclusion that they have been engaged in a conspiracy to effect that object.

The question you have to ask yourselves is—Had they this common design, and did they pursue it by these common means, the design being unlawful? I ought also to tell you that by finding the defendants guilty you will not (as has been said) affect the right of petitioning. It is not wrongful to assemble in a public meeting to petition parliament against

that which is alleged to be a public grievance ; neither is it unlawful to refuse payment of the church-rate in money, and to leave the collector to obtain payment by taking the goods of the party, as is constantly done in the case of the Quakers ; but it is unlawful by means like those charged in this indictment ; it need not be proved that these defendants met to concoct this scheme, nor is it necessary that they should have originated it. If a conspiracy be already formed, and a person joins afterwards, he is equally guilty. You are to say whether, from the acts that have been proved, you are satisfied that these defendants have been acting in concert in this matter. If you are satisfied that there was concert between them, I am bound to say, that being convinced of the conspiracy, it is not necessary that you should find both Mr. Murphy and Mr. Douglas doing each particular act, as, after the part of a conspiracy is once established in your minds, whatever is either said or done by either of the defendants in pursuance of the common design, is both in law and in common sense to be considered as the act of both. After evidence has been given that parties are engaged in a conspiracy to carry out an unlawful design, the acts of one are evidence against the other ; and what a person writes with the view of carrying out that common design is evidence against all, the legal principle being that *scribere est agere*—*Rex v. Stone*, 6 Term Reports, 527. In the *King v. Watson*, 32, State Trials, case 7, Justice Bayley said, “ It is not necessary to show previous concert amongst the persons charged to carry out an arranged plan. It is enough to show that at some stage he has co-operated in furtherance of the common object of all.” That then was the general law relating to conspiracy, and it was also laid down in the 9th C. and P. 275, and the 25th vol. of Howell’s State Trials, 1004, 1151, and 1153. The learned gentleman then called the particular attention of their lordships to a case of great moment, as bearing upon the subject of unlawful assemblies. In the same reports (Starkey’s), page 103, the same judge (Bayley) who had tried the case of the *King v. Hunt*, said—“ All persons assembled to sow sedition and bring into contempt the constitution are an unlawful assembly ; all persons assembled in furtherance of this object are unlawfully assembled too” In the next page the same judge says, “ If the object of the drilling is to secure the attention of the persons drilled to disaffected speeches, and give confidence by an appearance of strength to those willing to join them, that would be illegal ; or if they were to say, ‘ We will have what we want whether it is agreeable to law or not ;’ a meeting for that purpose, however, it may be masked, if it is really for a purpose of that kind, would be illegal.” In page 112, in the case of *Bedfor v. Birley* and others. Lord Tenterden said, “ It was therefore of the utmost importance to shew what was said by persons going to, or preparing to go to, such a meeting. Doubtless, in an assembly of this kind, many persons would go from different motives ; some would go from mere curiosity ; there would be others who would think there were public grievances which a meeting of this description might prevent ; others might go meditating mischief immediately ; others might again go there who meditated mischief at a future time, whom those drilled, who up to this period had been without arms, might have arrived at a future stage in military discipline.” In the case of the *Queen v. Vincent, Frost, and Edwards*, 9

Carrington and Payne, 275, the traversers were found guilty on this charge. "A conspiracy to excite discontent and disaffection amongst the subjects of the crown, and to excite them to hatred and contempt of the government and constitution, and to unlawful and seditious opposition to the government, is an undoubted crime, and of a most serious character," He would be told, forsooth, that the meetings dispersed peaceably. Why the dispersion of those meetings peaceably, and the intention that should disperse peaceably, was one of the most aggravated parts they of the whole proceeding. The multitude were peaceable, because the parties new that the time had not arrived for an outbreak, "The hour of England's infirmity was to be Ireland's opportunity!" That was the language of one of the traversers. "Wait—will you be ready to come when we call you? You must wait till the time arrives." If that course were not adopted, the conspiracy would necessarily be broken up at a much earlier period, because part of the conspiracy was to have the organization complete from north to south and from east to west. Then the signal was to be given; therefore it was that those meetings peaceably dispersed. In the case of the *King v. Yorke*, which was an indictment for a conspiracy to excite discontent and disaffection amongst the subjects of the crown, and to procure large numbers of persons to assemble together to hear seditious and inflammatory speeches, villifying the House of Commons and the government, Mr. justice Rooke in his charge to the jury said—"You are, therefore, to consider whether it was the intention of the defendants to enlighten the minds of the people upon a speculative point, or to carry them a step further and excite a spirit of discontent, disaffection and sedition in their minds.

If you be of opinion that the defendant uttered those speeches with that view, or that they had that tendency, even though he may not have had that design; yet if a man will in a public assembly utter words having a seditious tendency, he must take the consequences; and he can no more justify himself for what he has done by saying he did not think it would have had that consequence, than a man who would fire a pistol among a crowd would be allowed to say, I did not think my pistol would have gone so far, or that a man shall be allowed to say, I only loved the effect of powder, and did not think it would have killed the man." Mr. Justice Rooke further said—"The defendant supported his speculative principles of annual parliaments and universal suffrage, and says he has uttered no more than what may be found in the speeches of such men as the late Lord Chatham, Lord Camden, and others." And he then says—"If the conduct of the defendant here had been merely a speculation of his own it would have been a different thing; but when those speculations are gone forth in a large assembly, it will be for you to judge whether you will give him credits or the innocence of his intentions; and whether he did not address them with a view to inflame their minds and their passions." Again—"Others again might go there (as Lord Tenderden said) who meditated mischief at some future time, when those drilled, who up to this period had been without arms, might have arrived at a further stage in military discipline." In page 113, he proceeded—"When we consider that these country people came marching in this way, through the town of Manchester, bearing flags and banners,



inscribed with mottoes, not merely containing high sounding words, but inscriptions of 'No Corn Laws'—'Better die like freemen than sold like slaves,' and various other expressions of defiance, it is manifest that there was an avowed intention to insult those who were entrusted with the administration of justice and the laws; and, if possible, by a show of numbers, to overawe and prevent them from interfering with the object their leader might be supposed to have had." In the case of *Bedford v. Birley*, reported 3 Starkie's Nisi Prius Cases, p. 99, an action was brought against some of the persons who dispersed the Manchester meeting, pleas of justification were put in, and there was a verdict for the defendant. Mr. Justice Holroyd, who tried the case, in summing up to the jury, said—"There is likewise another plea which has let in a great deal of the evidence, viz., that there was a previous seditious conspiracy to excite discontent amongst the King's subjects, entered into by divers seditious persons for the purpose of exciting disaffection, and hatred and contempt of the government and constitution as by law established; and by unlawful means and combinations to alter the government and constitution of the realm; and then in one of the pleas the drillings are alleged which are stated to be clandestine. But whether they were clandestine or not, if they were done for the purpose of exciting tumult or resistance to the civil power, they would be unlawful." In another part of his charge to the jury he cites the opinion of Judge Bailey. Lord Tenterden having given judgment, Justice Bailey followed; and in page 116 he said; "It appears by the evidence in the case, that the meeting was composed of an immense number of persons; a very large display, therefore, of physical strength. Judge Bailey, in his charge to the jury, in the *King v. Hunt*, stated that "all persons assembled to sow sedition, and bring into contempt the constitution, are an unlawful assembly; all persons assembled in furtherance of this object are unlawfully assembled too." Mr Justice Holroyd also cited as the law another part of Judge Bailey's charge in the *King v. Hunt*, which is as follows:—"What are the objects of the leader; the person who means to occupy the chair; the persons intending to take distinguished parts in it? What are the objects of those who bear the flags or banners? Those are to be considered with reference to the inscriptions. What are the objects of those who have been drilled? If the object of the drilling is to secure the attention of the persons drilled to disaffected speeches, and give confidence by an appearance of strength to those willing to join them that would be illegal; or if they were to say, 'we will have what we want, whether it is agreeable to law or not,' a meeting for that purpose, however it may be masked, if it is really for a purpose of that kind, is illegal." A motion for a new trial having been made, the case was carried into the Court of Queen's Bench. Lord Tenterden, in giving judgment, stated, amongst other matters, "the conduct of persons probably and apparently going towards the meeting would undoubtedly be evidence, for it is by such evidence only you are able to discover that which, though not the professed, was the real object of the meeting; for it is evident such a meeting would not be held at all, if they did not at least take care to hold forth a legitimate object."

It was, therefore, of the utmost importance to show what was said by persons going or preparing to go to such a meeting. Doubtless, in an assembly of this kind many persons would go from different motives—some would go from mere curiosity—there would be others who would think there were public grievances which a meeting of this kind would prevent—others might go meditating mischief immediately—others again might go there who meditated mischief at some future time, when those drilled, who up to this period had been without arms, might have arrived at a further stage of military discipline.” In another part of his judgment Lord Tenderton says, “when we consider that these country people came marching in this way through the town of Manchester, bearing flags and banners inscribed with mottos, not merely containing high sounding words, as the counsel would infer (for the court cannot so view them), but inscriptions of ‘No corn laws,’ ‘better die like freemen than be sold like slaves,’ and various other expressions of defiance, it is manifest there was an avowed intention to insult those who were entrusted with the administration of justice and the laws; and if possible, by a show of numbers, to overawe and prevent them from interfering with the object their leader might be supposed to have had.” Mr. Justice Bayley, in giving judgment said: “It appears by the evidence in this case, that the meeting was composed of an immense number of persons; a very large portion of physical strength.” It appears on the evidence in the case, that there was an elevation, from which elevation persons would have an opportunity of making speeches. And it appeared also, that amongst other persons there was one who had no particular connexion with the place, and who had come a considerable distance for the purpose of communicating his sentiments to the large body of people which was assembled at that place; and he might, by the intimations which he there made, give to that physical force so assembled, a direction which might operate either in perfect innocence, or with a great degree of danger to the public peace. It appeared that before that period it was notorious that he had been at another public meeting, at which public meeting there had been certain resolutions passed. I am referring to the Smithfield resolutions.

At that time then you are to judge what the language will be which he will make use of at the place where there is that large collection of physical strength, which may receive a direction from him—what is likely to be the direction which he may be disposed to give it.” Mr. Justice Best, in giving judgement, stated, amongst other matters—“It appears to me impossible to say this drilling was innocent. If it was not innocent, what was it? We have the key to it in the evidence of the witnesses—that though nothing was to be done at this meeting, yet when their numbers were seen, others would join, and they would be then enabled to overturn the government. And in a subsequent part of his judgment his lordship said—“It is not necessary for the purpose of showing it was illegal to decide whether immediate mischief was to be then begun. I believe many went there without that intention; but I have had so much experience on subjects of this sort that I have known this to occur, that those who follow are more in a hurry for execution than those who plan. I think, therefore, that it is most probable that that which I have stated is correct, at least as far as regards the intentions of the leaders. Nothing

mischievous was to be done that day, they were only to ascertain the numbers, to accustom them to meet in large parties, to inspire mutual confidence, to incite others by the great numbers they presented to join in the scheme of those who had embarked themselves; and at some future day, when the drilling would be more advanced—when, as was said by one of my learned brothers, they should have had a trifling addition made to their discipline, by having arms put into their hands—then the mischief was finally to be entered upon.” It appears on the evidence in the case, that there was an elevation, from which elevation persons would have an opportunity of making speeches; and it appeared also that amongst other persons there was one who had no particular connection with the place, and who had come from a considerable distance for the purpose of speaking, and for the purpose of communicating his sentiments to that large body of people which was assembled at that place, and he might by the intimation which he then made, give to that physical force so assembled a direction which might operate either in perfect innocence, or with a degree of danger to the public peace. Were they to be told, and was it consistent with what the learned judge laid down, that they might have hundreds and thousands of persons assembled, whose course of proceeding was to be regulated by the direction which they might receive from any individual who might tell them to separate peaceably—who might do so for the purpose of carrying out further the designs of his conspiracy, aware that the organisation was not complete, reserving the withdrawal of the mask which concealed his design until the time arrived for doing so. But he denied that the circumstance of their being peaceable or ending peaceably when they were assembled together under the control of any one man, who might give them one direction or another, was consistent with the law of the land; and he should ever hold so until he heard the contrary authoritatively laid down. In p. 125 of the same book Lord Wynford said, “it appeared to him impossible that the drilling was innocent; it appeared to him that though nothing was to be done at the meeting, yet when their numbers were seen others would join them, and they should then be enabled to overturn the government,” &c. In page 126, his lordship said “it was not necessary for the purpose of showing it was illegal to decide whether immediate mischief was to be then begun; he believed many went there without that intention; but he had so much experience on subjects of that sort, that he had known this occur, that those who follow are more in a hurry for execution than those who plan.” This was the law laid down by Justices Bayley, Holroyd, and the present Lord Wynford.

He should trouble the Court with only one other case, the *Queen v. Collins*, p. 460, Carrington and Payne, in which a resolution of parties in Birmingham was set forth to the effect, that “the people of Birmingham were the best judges of their own power and resources to obtain justice.” In this case Mr. Justice Littledale, in summing up, said, “that with respect to the second resolution, it is no sedition to say that the people of Birmingham had a right to meet in the Bull Ring, or any where else; but you are to consider whether the words ‘that they are the best judges of their own power and resources to obtain justice,’ meant the regular mode of proceeding by presenting petitions to the crown, or either house of

parliament, or by publishing a declaration of grievances, or whether they meant that the people should make use of physical force, as their own resource to obtain justice, and meant to excite the people to take the power into their own hands, and meant to excite them to tumult and disorder. This was an authority more applicable to the present case than that before the court, when Justice Littledale pronounced his opinion. The only remaining authority was that of the *King v. Burdett*, page 178, of 4th Barnwall and Alderson. Having an idea that he had already trespassed too much upon the court on this branch of the proceedings, he would call their attention to the facts of that extraordinary case. In the *King v. Burdett*, 4th Barnwall and Alderson, 178, Lord Tenterden said, "In the *King v. Powes and others*, the trial proceeded upon this principle—when no proof of actual conspiracy, embracing all the several conspirators, was attempted to be given in Middlesex, where the trial took place, and where the individual actings of some of the conspirators were wholly confined to other counties than Middlesex, but still the conspiracy as against all having been proved from the community of criminal purpose, and by their joint co-operation in forwarding the object of it in different places and counties, the locality required for the purpose of the trial was satisfied by overt acts, done by some of them in prosecution of the conspiracy in the county where the trial was had." He thought it might be convenient, in the opening of his address, to advert very shortly, and shortly he would do it, to the position in which the question of the repeal of the union stood at the time of the constitution of the Repeal Association. Shortly after the passing of the Roman Catholic Relief Bill, which received the royal assent in 1829, an association was formed in this city which changed its name upon various occasions, with the view to evade the law, but having in contemplation the repeal of the union. There being at that time a statute which had since expired, a temporary act, the then government, of which Lord Grey was the head, issued a proclamation in January 1831, suppressing that association. The proclamation stated :—

*By the Lord Lieutenant General and General Governor of Ireland.*

#### A PROCLAMATION.

##### ANGLESEY.

Whereas, by an act passed in the tenth year of his late Majesty's reign, intituled "an Act for the Suppression of Dangerous Associations or Assemblies in Ireland," a power is vested in the Lord Lieutenant, or other Chief Governor or Governors of Ireland, by his or their proclamation or order, to prohibit or suppress the meeting of any association, assembly, or body of persons in Ireland, which he or they shall deem to be dangerous to the public peace or safety, or inconsistent with the due administration of the law, or any adjourned, renewed, or otherwise continued meetings of the same, or any part thereof, under any name, pretext, or device whatsoever.

And whereas it hath been known to us, that an assembly or body of persons has been in the habit of meeting weekly, at a place in the

city of Dublin, called Home's Hotel, Usher's-quay, and that the said assembly has been designed, and the meetings thereof held for the purpose of disseminating seditious sentiments, and of exciting amongst his Majesty's subjects disaffection against the administration of the law, and the constituted authorities of the realm.

And whereas we deem the existence of the said assembly or body of persons, and the meetings thereof to be dangerous to the public safety, and inconsistent with the due administration of the law :

We, therefore, the Lord Lieutenant General and General Governor of Ireland, being resolved to suppress the same, do hereby prohibit the meeting of the said assembly or body of persons, and all adjourned, renewed, or otherwise continued meetings of the same, or of any part thereof, under any name, pretext, or device whatsoever, and being determined and resolved strictly to enforce the law and the penalties thereof against all persons offending in the premises, do charge all mayors, sheriffs, justices of the peace, and all other magistrates, officers, and others whom it may concern, to be aiding and assisting in the execution of the law, in preventing the meeting of said assembly or body of persons, and all adjourned, renewed, or otherwise continued meetings of the same, or of any part thereof, and in the effectual dispersion and suppression thereof, and in the detection and prosecution of those who, after this notice, shall offend in the respects aforesaid.— Given at his Majesty's Castle of Dublin, this 10th day of January, 1834,

By his Excellency's Command.

E. G. STANLEY.

GOD SAVE THE KING.

This proclamation was issued by Lord Grey; and in the course of that year a question was put in the House of Commons to the then minister of the crown, Lord Althorp, relating to this question of the repeal of the union; and Lord Althorp, in that session of parliament of 1831, stated—"The case with respect to the government is this: The hon. member for Waterford has, it is well known, been exciting so much discontent in Ireland, has been keeping up what he calls agitation in that country, that although the conclusion of every speech, however violent or inflammatory, has been an advice to his auditors to be obedient to the laws, it must be evident to every unprejudiced man who has read those speeches, or who has marked the course which the hon. member has been pursuing, that this language and conduct has had but one tendency; namely, to incite to insurrection and rebellion throughout the country. I repeat it, their direct tendency has been as I described it. What, I ask, has been the avowed object of the hon. member for Waterford's agitation? To obtain a repeal of the union. I would beg to ask any man who has considered what the repeal of the union must produce, whether it does not become the duty of government to employ every means in their power to prevent the accomplishment of an object which must directly lead to an entire separation of the two countries? Sir, I trust that those who seek for a repeal of the union will not succeed. If they do succeed it must be by successful war, and, from the spirit of

my countrymen, I hold that to be impossible. The hon. member has made an allusion to such an extremity. I tell him that no man entertains a greater horror of war than I do ; and of all descriptions of war I think a civil war is most to be dreaded. But, sir, I also tell him, that even civil war itself would be preferable to the dismemberment and destruction of the empire. I have felt it my duty to state thus fairly and boldly what are the views of her Majesty's government on this momentous subject." That was the position in which the government stood in '31, and it was a matter which was not to be overlooked, in considering the question which arose in the present case ; for he would undertake before he closed his statement, to show that the object of the traversers in the course of the proceedings which formed the ground of the present action, was to obtain a repeal of the union by means otherwise than peaceable, by the disaffection which was produced in the minds of the people, and by the organisation which was established throughout the land.

It was not the first time that persons were found to preach peace, and to intend outbreak. An eminent English judge, (Grose,) in the case of the *King v Joseph Hanson*, said that men with rebellion in their hearts were often found to pretend peace. The effect of that proclamation in 1831, and of the strong opinion entertained by the then government, was to give a temporary check to the repeal agitation ; but the very moment that the statute of the 10th Geo. IV., giving summary power to the executive, expired, the agitation was recommenced, and the repeal of the union was again brought forward : and in the commencement of the session 1833, his late Majesty, in his address from the throne, desired to be intrusted with such additional powers as might become necessary in Ireland for controlling and punishing the disturbers of the public peace, and for continuing in its strength the legislative union between the two countries. On moving the address to the throne, Lord John Russell, then a minister of the crown, in the course of his speech stated—" Shall we now say that there ought to be a separation between England and Ireland at a time when, as I contend, all that has lately passed in that country shows that the objects in view are neither more or less than these—that an attempt is to be made under the name of a repeal of the union, and under the power of a separate parliament to disunite the two countries ; to confiscate the property of all Englishmen who have property there ; to overturn at once the united parliament, and to establish in the place of the King, Lords and Commons of the united kingdom some parliament of which the hon. and learned gentleman (Mr. O'Connell) should be the leader and the chief." Another minister of the crown said " I told the hon. gentleman what I will now emphatically repeat, namely, that the question of the repeal of the union is the question of separation between England and Ireland, that the question of separation involves the question of the destruction of the British monarchy, and the setting up in its stead in Ireland a ferocious republic of the worst kind." The late Lord Lieutenant of Ireland, then Lord Ebrington, declared on the same occasion that though he had the greatest horror of civil war he would prefer it to a repeal of the union.

This led to the passing of the statute called the coercion act which was a temporary statute, and has since expired. The effect of the passing of

the coercion act was to suspend the agitation of the repeal in this country, as it could not have been carried on without the summary powers given by the act being brought into operation against it. Mr. O'Connell then brought forward his motion on repeal in the House of Commons in the sessions of 1834, and on that motion one of the ministry moved an amendment, recording in the most solemn manner the fixed determination of the legislature to maintain inviolate the union between England and Ireland. That amendment was carried, and the original resolution lost by a majority of 523 to 38; and it was on that occasion that the present Lord Monteagle made his celebrated speech against the repeal. The next step taken to keep this unhappy country in agitation was the establishment of an association, in 1836, which was called the General Association, which had for one of its objects, as was the case in every association that had been formed by Mr. O'Connell, the collection of money, or, as it was called, "justice rent." It was always a part of the system of agitation to collect money, of which the poor inhabitants of this country have been from time to time defrauded; and which was spent in a way that nobody knew how or ever heard of. It was astonishing how the people could be so deceived as, under every pretext, to have money extorted from them, from year to year, and from month to month, which nobody knew how it was expended. That society or association continued until 1838, when the Precursor Association was formed, which continued to collect money from the poor, and to expend it in the same manner as in the system of agitation which preceded it, and which had been so long the curse of this country. They might as well expect the natural body should remain in a state of health when operated upon by continued stimulants, as that this country should continue in perfect peace and happiness while such a system of agitation was carried on continually.

The present association was the next formed, about the month of February, 1840. It since then changed its name twice, and it assumed its present name in July, 1840. The Loyal National Repeal Association. He had next to bring before the jury the nature of the constitution of that association. It consisted of associates, members, and volunteers. The associates were required but to pay but the small sum of one shilling each, so as to have their numbers extended generally throughout the country; and a card was given to each, which answered all the purposes required, without coming within the express language of the act of parliament against passwords and signs, and enabled the person having such a card to show to his neighbours that he was connected with the Repeal Association. There was nothing very particular on the associates' cards—one of which he then held in his hand. There was a shamrock on the top of it, with the words, "Catholic, Dissenter, Protestant," and the year 1782, with a view of the present Bank of Ireland, with the words, "It was and shall be." The next class in the association were the members who were to pay each £1; or if an associate who paid 1s. took the trouble to collect 20s. from others, he also was entitled to become a member as well as if he had paid the 20s. out of his own pocket. A card was also issued to the members as the bond of union between them, to which he should call their particular attention. On one corner of the card was the words "Clontarf, 23d April, 1841." On the other top corner was "Benburb,

5th of June, 1645." On the bottom corners were an Irish word which was translated, "The mouth of the yellow ford," with the date 10th August, 1598, and "Limerick, 9th August to the 31st of August, 1641." An explanation was also furnished to the members to whom the card was given, which was printed and adopted by the association. It pointed out the reason why those four names of different parts of Ireland were adverted to. They were the names and dates of fights in which the Irish were successful, either over the Danes or the English, or, as the defendants termed them, "Saxon foreigners." That was the association that preached peace and tranquillity; that never thought of inciting discontent between different classes of her Majesty's subjects, while it adopted a card with a view to endeavour to rake up the transactions of centuries, in order to incite the Irish people of the present day to hatred of the Saxon foreigner.

The printed document accompanying the card described those four victories, at the first of which Brien Boroihme commanded, at the second Hugh Ferdinand O'Neill, at the third General Owen Roe O'Neill, and at the fourth General Sarsfield. In one of the pillars represented on the card, the geographical position of Ireland was contrasted with various states, with the words underneath, "Ireland has not a parliament." It then stated the revenue expended by Ireland during the last great war against France, and stated that the general and two-thirds of the officers and men of the English army and navy on that occasion were Irishmen; and again repeats the words that Ireland has not a parliament of her own. There were two flags on the card, in one of which was the shamrock, with the same motto as in the association card; and in the other a view of the sun shining from behind a cloud, which, he believed, was the ancient banner of Ireland. There was also a small map of Ireland. In a scroll at the top of the card were the following words:—"Resolved unanimously, that the claim of any body of men other than the King, Lords, and Commons of Ireland, to make laws to bind this kingdom, is unconstitutional, illegal, and a grievance.—Dungannon Volunteers, 15th February, 1782." He supposed it would be contended, on the other side, that they could get, rightfully and legally make use of that resolution, as it had been adopted by the Volunteers of 1782; but he would beg leave to recal to the recollection of the jury what was the question in 1782, as contrasted with the present agitation. By a statute of the 6th Geo. I., the English Parliament, having no Irish representatives, while Ireland had a separate parliament of their own, claimed to bind Ireland by the force of an English law. The Volunteers denied the power of the English Parliament to bind Ireland by its laws; but subsequent to that the Act of Union was passed, and articles were agreed to by both legislatures, with the assent of the crown, to which he would afterwards have to advert more at length, by which the two parliaments were to be henceforth united, and summoned under the great seal of Great Britain. He would venture to say, that a more illegal proposition than that involved in the adoption of that resolution never emanated from the person deepest involved in guilt. At the bottom of the card are the words—"You may make the Union a law, but you cannot make it binding on conscience;" with the words under it "Saurin's speech." They would, he dare say, in the



course of that case, hear extracts, not only from the speech of Mr. Saurin, but also from Lord Plunket, and the late Lord Chief Justice of that court ; but the defendants in using them, never added that those speeches were delivered by those illustrious personages as members of the Irish House of Commons, and never after the Act of Union was carried.

The Attorney-General then produced the Volunteer's card, which contained the words "Volunteers of 1782 revived," and portraits of Mr. O'Connell, Mr. Grattan, Mr. Flood, Owen Roe O'Neill, Hugh O'Neill, General Sarsfield, and Brien Borothme (laughter). He regretted that they had arrived at such a state in this country as that such a case as the present should excite laughter; but he would venture to say before it closed, that he would show it to be such a case as should excite any feelings but those of laughter. These being the persons composing the Association, it was necessary that there should be officers, who consisted of general inspectors, repeal wardens, and collectors. The repeal wardens, according to the rules of the Association, were to be appointed by the Association on the recommendation of the clergymen of their parishes. He next produced a book which was endorsed, "Instructions for the Repeal Wardens," and which prescribed their duties, the principal one of which was that regarding the distribution of newspapers throughout their districts. From these instructions it appeared that when the sum of 10l. was transmitted by any locality to the Association, the members of that district were entitled to a weekly newspaper, and 20l. entitled them to a copy of the Pilot, or other paper published three times a week. One of the duties, therefore, of these repeal wardens was, to apply to the association to transmit these papers to their districts when the prescribed sum was collected; and another was to have the newspapers put into the hands of such persons as were likely to give them the greatest circulation, in order that their contents might be communicated to as many as possible; and they were recommended as the best means of effecting this, to procure a room, when practicable, and when a sufficient number of members were enrolled; but they were enjoined, before doing so, to consult the association on the subject. The object of such instructions clearly was, that the sedition, as he should shortly make apparent, in which the repeal press habitually traded, should be circulated among as many persons as possible, and, thus, by sowing the seeds of dissension and discontent, to excite hatred to the government of the country amongst her Majesty's subjects. Let him here incidentally observe, that it was by means of the celebrated organ in France, which was styled *L'ami du Peuple*, that the minds of the people, at the time of the French revolution, were poisoned against the government there, and that in this country, in 1798, the same effect was produced by the publication known as *The Press*. He trusted, however, that at the present juncture, a sufficient check had been given to similar designs to prevent the ruinous consequences of the licentiousness of the press. The learned gentleman then read the following from a pamphlet, entitled "Instructions for the Appointment of Repeal Wardens and Collectors of Repeal Rent with their Duties :"—"The ninth duty of Repeal Wardens is to take care that there shall be transmitted from the Association to each locality a weekly newspaper for every 200 associates, or a three

day paper for every 400 enrolled in such locality, as the case may be. The sum of 10l. collected and forwarded to the Repeal Association, entitles the repealers of the district whence it comes to a weekly paper for the entire year gratis; and the sum of 20l. entitles them to the *Pilot*, or *Evening Freeman* newspaper for the same period, if they prefer either to two weekly papers."---The tenth duty of the repeal wardens is to have the newspapers to which each parish or district may be entitled put into the hands of such persons as will give the greatest circulation to their contents, so that each paper may be read by, and its contents communicated to as many people as possible. For the purpose of circulating the proceedings of the association and other repeal news by access to the newspapers, and for transacting general business, &c. we would recommend that wherever there is a sufficient number of repealers enrolled, the wardens and collectors should provide a convenient room to meet in "If the repeal organization by general, provincial and baronial inspectors, by wardens and collectors, by volunteers, members, and associates, have any efficacy in it, it will now have a fair trial---a far inferior machinery, though checked and hampered, carried emancipation. The present organization will be extended to every parish in Ireland, and perfected in every parish. The whole nation will be arrayed under that system. There is a full purpose in the minds of the repeal leaders, not to rest until it is carried out. The people will gradually but surely be arrayed, classed, organised, and bound together; subordination of ranks, community of thought, obedience to orders, firm trust in those who command, constant activity in teaching and learning the means of liberation, and rapidly becoming general."

In a subsequent part of the same publication Mr. Duffy states---"The organization must not only be carried every where, but it must be revived every where. If the repeal wardens of any district do not see that the organization, division, and training of all the repealers in their district is perfect---if they are not sure that the people are qualified by simplicity and completeness of organization, by self-denying obedience, by knowledge of a citizen's duties, by courage and habitual order, to take the place among the men of a free nation, these wardens have not finished their duty---that district is not ready for liberty." They had all heard of the Jacobin Club in France, and its affiliated societies, and it might be safely asserted that no man ever contemplated the tremendous consequences to which the establishment of that club had led, yet it overthrew one government---that which succeeded was found to be incapable of continuing on the principles on which it was founded, and it was succeeded by despotism. The learned gentlemen then read the following extract from the charge of the late Chief Justice Bushe to the grand jury, at the Maryborough Special Commission, in 1832:---"In the case of individuals the progress from one offence to another is mostly gradual; but in the case of associated criminals rapid. It is the nature of unlawful associations to influence the passions of one man by the passions of another, and to bring into general action the collected views of many. The man whose own temptation or frailty would be insufficient to urge him onward in the career of guilt, whose own reason or compunction might arrest his progress, is borne along with the torrent; bad example

decides him, false shame hardens him, and he is precipitated almost necessarily into crime. It is, therefore, a humane as well as a wise law which denounces a severe punishment against every offence of whatever nature which is likely to lead to the commission of the highest crimes, and its wisdom has been exemplified in the history of those associations. They begin by incendiaries spreading amongst an ignorant multitude the spirit of discontent. The inequality of human conditions is represented as a grievance; every inconvenience of which they can complain, however incident to human society in all countries, is denounced as an abuse. They are taught to combine for the purpose of rectifying all those supposed wrongs; every moral principle is rapidly extinguished—every sense of obligation is lost; that consummation of vice to which an individual slowly habituates himself a conspirator arrives at speedily, sometimes in a single day; and it has often happened that an unfortunate and deluded wretch has in the morning joined one of these confederacies, as the champion of rights, and redresser of wrongs, and the evening sun has set upon him covered with crimes." He would now come to the earliest meeting of the association to which he meant to advert. From the great magnitude of the case, it would be impossible for him to call their attention to every meeting of the association, or of the thousands who had met in various parts of the country; and although he should occupy much of their time, he had endeavoured, by making a selection of those meetings, to abridge this part of the case. After stating that every person attending the association, and taking part in its proceedings, was, to all intents and purposes, a member, the learned gentleman proceeded to say, that the first meeting to which he should call their attention was that held on the 13th of February, in the year 1843. Mr. Ray, at that meeting, read an extract of the accounts of the associations for the past year, by which it appeared that upwards of 360*l.* had been expended on newspapers—that is, for exciting hostility to the government by means of seditious publications. After adverting to the nature of the "diploma," which was first produced at this meeting, the learned gentleman proceeded to read the following extracts from the speech delivered by Mr. O'Connell on the same day :—"The great mistake of Napoleon was, that he undervalued Ireland. If, instead of taking an army to Egypt or Russia, he sent forty thousand men to Ireland, what would be the consequence? He would have all the educated classes opposed to, and ready to meet him in arms, and repel invasion; but would he have the population opposing him? Would not the question be raised amongst them whether they would not be better under French than under English dominion? What would be the answer to that question? It would be given in the voice of millions, and would sever the connection in less time than he had been addressing them. France knew of the discontent of the people; she knew that by the educated classes she would be opposed; but she also knew that now that Christianity again blessed her altars, that the anointed priests of God were heard as formerly from her pulpits, and that the spirit of religion had taken the place of the spirit of Atheism and Infidelity which made the Irish abhor them; and when the soldier would go to mass side by side with the peasant, the statesman was mad who would leave Ireland in her present position except she resolved not to go to war with France or any

other country. But let them rally with him, and get the repeal from England, and she might defy all the countries on the face of the earth. There was no country upon the face of the earth so strong in her natural resources as Ireland. There was a natural strength of a military nature in Ireland such as no other country possessed. Her enclosures made every field a redoubt, where cavalry could never bear down upon her infantry. The light and hardy soldier would find a place of protection in every field in the country. The roads were a kind of defiles; and if the congregated powers of Russia endeavoured to pour out its force upon Ireland, and if Irishmen were led by their own countrymen, they would fling the invaders from the cliffs into the sea, and even disintral the land from the oppressors." The learned Attorney-General having concluded the reading of this extract, proceeded to contend that the foreign enemy—that the "Saxon foreigner," as they were afterwards called—intended and pointed at in this speech, was the English people. He had next to bring under notice a publication of another of the traversers, Richard Barrett, the editor of the Pilot newspaper, who himself took a prominent part in the association, and endeavoured, as far as he could, in the columns of his newspaper, to excite discontent and disaffection among the people of this country. The Pilot was one of those papers, which according to the instructions of the repeal wardens, were to be circulated in districts subscribing 25*l.*; and the number containing the extract which he should read bore date 10th March, 1842. It purported to give an account of a meeting in the United States of America; and although purporting to be reported at length, he should trouble them only with an extract from the speech of Mr. Tyler, son of the President of the United States—"And when we know they are brave in the field, eloquent in the senate, wise in the cabinet, united and determined to be free, we cannot suppose for a moment their freedom is impossible or even difficult. The libation to freedom must sometimes be quaffed in blood. the Irish heart he looked upon as true freedom's pole, true as is the magnet to the north, and their lives are given cheaply in the purchase of liberty. Such being the character of the people, we have no fears but she will soon work out her freedom, and he for one wished and hoped it might be speedy and comprehensive."

He (the Attorney-General) would now call the attention of the court and jury to the leading article in the same paper, alluding to the meeting in question, and the speech made by the President's son. It went on, amongst other passages, to say :—"REPEAL,—AMERICA. We insert below a report of a meeting held in the city of Washington, the capital and seat of the chief government of the United States. It is unnecessary to request the deepest attention of our readers to this important proceeding. The station of the parties who took a leading and prominent part in that meeting is such, that the bare announcement of their names is enough to draw the intense attention of our readers to the matter, whether of tory, whig, or repeal politics. It will be seen that the meeting was addressed by several members of congress, and by other men holding high office in the government of the country. But above all it will be seen—and we call the attention of her Majesty's government to the fact—that the son of the President of the United States took a leading part

at that meeting. He moved the first resolution, and delivered a bold and statesmanlike speech on the occasion. We learn from our private correspondent that Robert Tyler, the gentleman we allude to, is a young man of great talent, the secretary of his father, and of course the representative and expounder of that father's sentiments. Very well. Now, here is the President of the United States a repealer of the unholy union. Here is his son, and here are several members of congress gathered round the green standard of Ireland. The United States is studded all over with Repeal Associations. These associations are about to band themselves together by means of an executive board, which shall never die till Ireland is restored to her liberties. How can repeal be refused, sustained as the demand is by the people of the United States, with the President at their head? America naturally calculates that Ireland can be attached to her interests. Ireland is after all an important section of the national family. Napoleon once said, 'had he landed his Egyptian army in Ireland, and trained it into a Republic, he might have changed the destinies of Europe.' Mr. Benton, the Missouri senator, uttered a similar sentiment in the Senate House, the other day. Curious coincidence!" These were the publications circulated by the members of this association, who consider that they were justified in so distributing them, and having them read to as many persons as possible. This was the poison which was infused into the minds of the Irish people, who would be, and were, naturally obedient to the laws of their country, if they were not excited to rebellion by private and interested persons for selfish purposes.

He (the Attorney-General) would say, in the language of a late minister of the crown, "that those regulations, or those establishments, for the purpose of carrying repeal in Ireland, were got up in order to create a republic, of which Mr. O'Connell would be the chief;" and that, perhaps, was the "curious coincidence" he had previously alluded to. The next step in the conspiracy to which he would apply himself was the custom of large bodies of people assembling together, and coming from a great distance, who were ordered to march those great distances by orders regularly issued to them; in order as he was prepared to show, to accustom them to meet and come from their respective homes upon directions being given. And although they assembled at those various meetings---not with arms in their hands, because like the Manchester case, they were first to be drilled; until the proper period arrived for that, however, they were to assemble and march, according to military arrangement---not indeed to take a part at any of those meetings, but to act, as stated in the case judged by Lord Tenderden, to which he had alluded; and when the drilling was completed, and when "England's infirmity should have arrived," they would be thus in the habit of gathering together in military array and discipline, and when a convenient time should arrive the order to arm would be given. There was nothing occurred in any stage of the conspiracy which had not its precedent, and in the part of it at which he had arrived it would be remembered that the same course was adopted in '97, previous to the rebellion. That was a matter of common history, and was reported by the committee appointed by the House of Commons to inquire into the cause of that insurrection. The committee stated---

"The next measure to which your committee beg leave to point the attention of the house is the proclamation of the Lord Lieutenant and council, bearing date the 6th November, 1796, issued in consequence of the disaffected having adopted a practice of marching in military array and assembling in large bodies, in some instances to the amount of several thousands, under the pretence of saving corn and digging potatoes; and in fact, to terrify the peaceable and well disposed, and to compel them to enter into their treasonable associations. The same system has since frequently been had recourse to by the united Irishmen in other parts of the kingdom under various pretences, such as funerals, foot-ball meetings, and with a view of displaying their strength, giving the people the habit of attending, from great distances, upon an order being issued, and making them more accustomed to shew themselves in support of the cause." The earliest meeting to which he (the Attorney General) would draw the attention of the court took place in the year 1843—in fact, it was the first meeting in that year, at least of those called "monster meetings;" but, however, one of very little importance, compared with some of those which subsequently were held when the conspiracy increased in extent, and when the daring of the leaders increased. At Trim the first of those meetings, and one to which he alluded, was held on the 16th of March, when Mr. O'Connell, Mr. Barrett, and Mr. Steel—three of the traversers—were present, at which 30,000 persons also attended; but in the evening, as was generally the practice, there was a dinner, consisting of the leaders of those congregated thousands, upon which occasion Mr. Barrett spoke in answer to the toast of "The People," and in the concluding passage of his speech he, alluding to the progress which repeal had made, said—"And the certainty of its success, situated as England was, abroad and at home;" and he concluded by calling on the people "to be united, tranquil, resolved and generally organised, and when they were, Ireland was to but stamp her foot and she would repeal the union."

This was the loyal and constitutional advice given to the people to make them faithful to the crown, well coinciding with Mr. Duffy's publication, when he called on the people to follow his advice, telling the repeal wardens in each parish, "that if they did not do all that he stated they would not be ready in that parish for repeal; but when every parish in Ireland was ready she had only to stamp her foot and repeal was certain. At the same dinner Mr. O'Connell spoke and said; "When I think of the multitudes that surrounded me to-day, when I saw the bright eye and the ready look, and that elasticity which belongs to Irishmen beyond all other people on the face of the earth; when I saw those by whom I was surrounded by on one side, and those who bring the benediction of God upon our cause on the other; when I stand in your presence, men of Meath, and ask you are you slaves, and will you be content to be slaves, I join in your response, and say to myself, I shall be either in my grave or a freeman. One or the other alternative is all that remains for me; for I am tired of remaining under submission to others, and am resolved to take leave to live by myself. The country that is governed by another is like a man that has a master; or rather it is worse, for a man may be hired as servant and break the contract if he does not like his situation; but the country is like a man who cannot do so, and

who, whether he be black tawny, white or atrabilious, is as a slave; and what makes one man a slave makes millions slaves when applied to all. I told you before that I would not be a slave; and I now want to know are you willing to follow my example? Young gentlemen I ask you, dare you say you are not in that presence (pointing to the ladies). If you do, I tell you that those who you now see here are too handsome and too good ever to be mothers of slaves. No; the time is come, the hour is arrived, the day-star has arisen, and Ireland must now determine to be free or consent to crouch for ever beneath the feet of her tyrants. I had occasion latterly to be rummaging in Irish History, and I found some nice morsals in her bygone story.

I found that many occasions arrived in which the Irish were on the point of victory when they abandoned the field. In the most disastrous battles that they fought victory was theirs if they persevered; and even at Aughrim they had a triumph if they only had perseverance and used it; and even at the blood-stained Boyne they would have gained the victory if they had fought for another half hour. Irish history is full of such instances; but on every occasion the same confiding in their enemies, the same believing in the moderation of their foes, the same conceiving that the English were not actually as bad as was represented, and that they might safely acquiesce in their dominion, was always the cause of the overthrow of Ireland. I tell you that the country on every occasion lost by that; but I have this material for a leader of the Irish people in me, that I never will relax in the battle till the victory is mine. I call on you therefore to rally for the repeal; and what brought you here if you do not? Idle sentiment will not do it; it is not enough for you to say you wish for an Irish Parliament, that you would like to keep the absentee rent in Ireland, that you would like to see the country as it was when an Irish Parliament promoted industry, and brought comfort and prosperity to Ireland. What care I for your liking it if you do not reduce it into action? The man who thinks well and does not act up to his thoughts, is worse than the scoundrel who openly betrays his country. There is no virtue in the half-will or half no of any individual. Your country is your religion. If the will and the heart is not engaged in the one as well as in the other, the feeling is totally tepid, and one becomes disgusted with the spurious wretch who is only half alive either to virtue or his country. Spread this abroad, tell every man you meet you are for Ireland, or against me, I cannot admit of an intermediate state. There may be some of the enemies of the country who may be less disposed to attack me than others; cherish these for they are half brought over; but the man who pretends to be the friend of Ireland, and who halts in the middle passage, is gone half way to the enemy, and the sooner we lose him entirely the better. We are arrived at this stage of the agitation, that there is not a single human being so stultified as to think that the English parliament will do any thing for Ireland.

A man might expect coercion acts, and tithe bills, insulting reform measures, and restricted franchise bills—there is no bill in the catalogue of oppressions that you might not expect; but I would walk to Drogheda and back again to see the man who is blockhead enough to expect any thing except injustice from an English parliament towards Ireland.”

Connell on this occasion adverted to the physical force by which he had been surrounded that morning. He recalled to the memory of those who heard him the battles of Aughrim and the Boyne. He called upon the young men present to say whether they would be slaves; he said they would be in his grave or free; that idle sentiments would not do; they must act upon their thoughts; that they had nothing to hope from the English parliament. They must follow his example—they must be free men or they must be freemen, and that they were not to follow the English parliament. And it might not, perhaps, be improper for him to state at this period of this matter, by no means unimportant, that during the whole of the last session of parliament not a petition was presented to parliament from any of those multitudinous meetings. It was surprising that there was not. It would be rather singular if petitions were presented from a meeting, the leader at which meeting said that they were to hope nothing from the constitutional body by petition alone could be acceded to by legal means the carrying out of their petition. He knew they would be told, as they all knew, that since the execution commenced there had been a great activity in purchasing petitions, in order, if possible, to get rid of the notorious fact which he had to prove, that no petition was presented from any of those meetings during the last session of parliament. This activity was now used from the possibility of its being truly alleged that those meetings were for the purpose of petitioning parliament. As the judges said, in the case to which he had before adverted, "it was scarcely possible to hold those meetings without some pretext." But even if they had some pretext, it was ascertained at those meetings would have shown that it was a mere colorable proceeding; and that these objects were not by constitutional means, but through the instrumentality of the legislature to carry out the objects they had in view.

Nothing more than a year ago there was a newspaper established in London, the property of which is belonging to one of the traversers, Mr.

He had already adverted to him, and the newspaper, as they were all aware, was *The Nation*. They also had it in their recollection that the principle of the association was to circulate this paper as far as possibly could. Now, he believed it had been a circumstance which had come a proverb—"I shall leave you to the making of the laws, if I give you the writing of the ballads." It was a singular circumstance that the writing of seditious poetry had been a principle carried on in this country not now for the first time. In that very work to which he had just now, "the report of the committee of secrecy," formed on the resolution of the House of Commons, he found that there had been the same class of seditious poetry, which had been thought advisable for the purpose of poisoning the minds of the people in this country. There had been so numerous that they had actually been bound in a small volume, entitled "*The Spirit of the Nation*." He was not now about to exhibit them with more than one specimen, but that specimen would enable them to understand it more fully hereafter, when he read more from the same publication. It was one of those poems which appeared in the London newspaper of the 1st of April last. It was entitled "*The Cry of the Dead*." The learned gentleman then read the poem  
 thus :—



## THE MEMORY OF THE DEAD.

## I.

Who fears to speak of Ninety-eight?  
 Who blushes at that name?  
 When cowards mock the patriot's fate  
 Who hangs his head for shame?  
 He's all a knave, or half a slave,  
 Who slights his country thus:  
 But a true man, like you man,  
 Will fill your glass with us.

## II.

We drink the memory of the brave---  
 The faithful and the few---  
 Some lie far off, beyond the wave,  
 Some sleep in Ireland too:  
 All---all are gone---but still lives on  
 The fame of those who died:  
 All true men, like you men,  
 Remember them with pride.

## III.

Some on the shores of distant lands,  
 Their weary hearts have laid;  
 And by the stranger's heedless hands,  
 Their lonely graves were made,  
 But though their clay be far away,  
 Beyond the Atlantic foam;  
 In true men, like you, men,  
 Their spirit's still at home.

## IV.

The dust of some is Irish earth,  
 Among their own they rest;  
 And the same land that gave them birth  
 Has caught them to her breast,  
 And we will pray that from this clay,  
 Full many a race may start;  
 Of true men, like you, men,  
 To act as brave a part.

## V.

They rose in dark and evil days,  
 To right their native land;  
 They kindled here a living blaze,  
 That nothing can withstand.  
 Alas! that might can vanquish right---  
 They fell and passed away:  
 But true men, like you, men,  
 Are plenty here to-day.

## VI.

Then here's their memory ! may it be  
 For us a guiding light,  
 To cheer our strife for liberty,  
 And teach us to unite.  
 Though good and ill be Ireland's still,  
 Though sad as theirs your fate ;  
 Yet true men, be you men,  
 Like those of Ninety-Eight.

These were the publications by which it was intended to excite the minds of the people; and this was but a single specimen of one entire volume—and a volume containing more exciting, inflammatory, and seditious matter—matter more intended to excite feelings of discontent and disaffection amongst the people of this country, could not be found in the works of the same character published in 1797. The next document to which he would call their attention, was a publication in the same journal of the 29th of April last, entitled “Something is coming” :—  
 “Aye, for good or ill, something is coming. Some crisis, some decided swell or ebb of Ireland's fortune, is not far off. The country at length is roused. Gathering, and darkening, and accumulating have its forces been for long, and men said, ‘It will be a shower,’ and ‘twill pass away ;’ but now the masses are suddenly rolling together, and crowding the firmament. The heart of Ireland begins to beat strongly. This is a solemn time for all men who can influence the people. Excitement fully as great existed here before, and existed vainly or worse. Of the great agitations which have taken place within the lifetime of our old men, how many have failed, how few succeeded? From 1779 to 1783, a series of triumphs were gained: but how were they won? England was exhausted and discouraged by the loss of her finest armies in America. a French fleet hovered on her coasts, she could not refuse, she had not military strength to resist the demand of the volunteers for arms—for arms and for liberty. Had she refused, a Rochambeau or a Lafayette would have been welcomed on the coasts, and a half campaign would have seen an independent Irish flag flying over the Castle. England yielded.

“Again in 1793, the victories of the French Republic, the threatened revolts both in England and Scotland, and the Ulster alliance with France, gained toleration. And lastly, in 1829, the organisation and resolve of our peasantry, the din of American armament (for the field pieces of the Irish artillery rumbled through Philadelphia), the muttered resolve of the Irish soldiery not to coerce their country, and the menace of France that she would not leave Ireland single-handed in the affray carried Catholic Emancipation. Let no man mistake us. We do not wish to discourage the people, but to put them in a state of mind as remote from depression as from frivolous confidence. Confidence has no safe basis except in thorough knowledge. We do not bid the people crouch in cowardly woe—we summon them forth to strain every nerve, to abandon present comfort, to make any sacrifice for liberty, provided they see clearly for what they come forth, and how they are to succeed. But we never will urge them

out with us on the troubled waters unless we are sure of ship and crew, and foresee how we shall weather the gale. We repeat, then, that there are signs of storm abroad, and we wish the people to look into the tempest and measure its strength, and prepare to conquer it. Ireland has the means of a present and partial, and of an ultimate and complete success in her own hands, if she go wisely, and therefore sternly, coolly, and vigorously to work. Let no man believe that they have undertaken a holiday mumming in meeting England's remorseless and subtle despotism. Let us have no bragging or foolhardiness. There has been too much of this at all times in Ireland. If we were all that we are apt to call ourselves, how comes it that millions of our population often want a second meal? And why have we failed to loosen or smash England's cruel and wasting gripe of us? No, no, the Irish have great genius and courage, but they require to educate and steady themselves into that foresight and perseverance which win campaigns as well as battles in politics or war. Let us look about us for the elements of success; let us throw away no resources, offend no ally, arouse no neutral, and abandon no strong position.

"We have the opportunity and the means themselves to our hands. America is more unanimous in its friendship, and more powerful in its means, than in 1829. Let America be told the whole truth of our position, and she will do her best. We can promise for some of the ablest and greatest in France. The French people long to serve us. England is in distress. Her finances are in difficulty. Her colonial empire—India, the Cape, China, Canada, &c, make such a demand on her, that out of 103 battalions, which constitute her infantry of the line, 80 are abroad, and only 23 in the three kingdoms. And unless the late blows received from Portugal and Brazil tend to keep her up against the staggering shocks without, and the huge cancer of aristocracy within, her pecuniary resources will diminish as the demand for them increases. What then is necessary? Exertion, coolness, patience, and courage. The people of Ireland are now more sober and orderly, though not more excited than in some of their former movements. Let them endeavour to get more order and more intelligence—let them do and prepare more than hitherto—let them be kind, conciliatory, and forgiving to such of the protestants as have not yet joined—and, above all things, let them avoid any outbreak or collision with the troops or police. The police, to a man, and the majority of the troops of the line are Irishmen. Why should the people despair of their patriotism, or injure them in any way? Premature insurrection, and needless provocation of party, and military hostility, have, before now ruined as good hopes as ours. Rapid, uniform, and careful organization for the repeal agitation, charity and conciliation, and a strict observance of the law, are the pressing and present duties of every Irishman. Thus shall we baffle our foes! We have been led into this train of thought by Mr. O'Connell's proposal to form an association of 300 men of trust, to consider and prepare a bill for the repeal of the union. We did not hesitate to differ from that illustrious man upon smaller questions. If we dislike his present design we should at once express our dissent, for candour and fair dealing are the first of all duties in times like these.

We speak then not as flatterers, nor thoughtless asserters, when we call this project the wisest, the boldest, and the most pregnant with great result of any measure he ever proposed in Ireland; if the people do their duty this machinery must triumph.

But upon the composition of that body, on the just and judicious zeal with which it is matured, and on the firm courage with which it is backed by the people, every thing depends. If the people, flattered at the thought of a new plan, grow negligent in their organization and remiss in their agitation, or if they hastily promise, and blindly appoint as the trustees of their subscriptions, cowards, blockheads, knaves, or bigots; men of doubtful courage, vain or clumsy intellects, or uncertain devotion to Ireland—if these trustees are not confided in, no matter what they may will or do; and if they are not supported to the last shilling, and the last man, the attempt will only come crushing back on us in shame and ruin. But if the people go on meeting, organizing, collecting, and conciliating—if they trust their contributions to bold, faithful, educated, and tolerant men, and if they stand by these they trust, without cavail or flinching, Ireland will soon be a nation." "Our Nationality.—The olive growth of nationality is overspreading the provinces, and taking permanent root in the heart of the land." Assured millions gather round it, watching its progress and its strength with straining eyes, and cold were his heart who sees its beauty unmoved; whose heart yearneth not for its saving shade. If such there were they are fast disappearing; those who were without hope are now firmest in national belief, and the shrinking and the timid are become the forward and most bold. Many, too, who only a year ago regarded it as a fair, unreal vision, now cling to it as a palpable, intelligible, and unmeasurable blessing already clutched in their heart's grasp, and only to escape thence when those hearts are cold and pulseless. Men meet in the highways, between whom there had been long and frantic estrangement, and while they shake hands in the common hope, they stare around them for that mutual juggle by whose dexterous application was shuffled out of view the lasting glory which each could share with each and all enjoy abundantly.

This is a mighty accomplishment; the great seed is sown, the people come together, they move on, they are in earnest, they are determined, the end is begun; already Ireland is a nation, and this is but the work of a few, the lesson of sanguine men, among whom we have had an humble place, the teaching of truth confirmed and matured by wrong. Men's thoughts were probed, they were told to garner their individual sufferings, to forget them in their country's dependence. History was opened to them, and it showed them those on whose fiat their hopes were based, remorseless, truthless, cold, selfish, and bloody in every age and every clime, it showed them that to lean on these was to lean on death, and sense and courage did the rest. They have resolved to trust no more in treachery, and their resolve, as it ever must be in the case of a unanimous and daring nation, is already a wish fulfilled; and in their virtuous undertaking the Irish do not want for cheering inoperations. Good men whether subdued or triumphant, from the Danube to the Scine, and from the Scine to the Ohio, look approvingly on their actions and take their cause to heart. Among the whole civilized race they have no foes but

the Saxon, no opponent but the clumsy and decrepid thing that calls itself our master. With so little to deter us—with heaven above us and the earth below, where our martyred forefathers lie—with our conscience as our guide, and the world to cheer us, is it not marvelous that we could have so long stooped to a beggarly servility? But this is unavailing. Let us look back only to be assured. If the past supply no higher impulses than the present, let it be forgotten. It has lessons which, when we are called on to forgive, will afford ample scope for the exercise of the most difficult of the Christian virtues, and till then it shall rest with those unavenged heroes who have become a portion of itself. At present other thoughts must animate, other impulses must be obeyed. There is yet work to be done, danger to be dared, and difficulty to be removed. These are to be met and triumphed over. Every successive step, as it becomes more momentous, becomes more perilous and requires corresponding caution, courage and virtue. Our enemy may be aroused and so must Ireland. The county of Tipperary is on its peaceful parade; there prevailed among the people there a sense of indifference—a disinclination to work until the great task was set before them. Besides this, they wished to work together, and for so high an enterprise they felt that until now the time was not come. Their present earnest demonstrations that they but waited for the suspicious hour to strike a decisive blow, and take a becoming stand for the fortunes of their country. Their purpose is a noble one, and if we interpret them aright their plans must be successful. There are to be two meetings, one in each riding. Neither is meant for show. The multitude will not come to gaze and shout and return to a listless indifference of their country's fate. They will come pledged to purchase its redemption at whatever cost. The demonstration will be one of work. Each parish will be prepared to show, not what it thinks, but what it has done. They will appoint representative delegates from every locality, who will tender to the Liberator the allegiance of those who are willing to pay for the honor of serving their country. The two meetings will come off on the 23d and 25th of May, and if we be not misinformed, these days will form a meaning era in the struggle for native liberty. Twenty thousand Tipperary men, who would as soon, if called on, pay their blood as their subscriptions, would not form a bad national guard for Ireland."

The Attorney-General then said, that at this stage of the proceedings it might be right to recall to their recollection what took place about this time in other places, and in the interval between the Tipperary and the next of the multitudinous meetings that was held. On the 9th of May last, in the House of Commons, the excitement which prevailed in Ireland, in consequence of these meetings, gave rise to a question having been put to the first minister of the crown, and upon that occasion he made, amongst others, the following observations:—"I can state that her Majesty's government in this country, and in Ireland, are fully alive to the evils which arise from the existing agitation in the latter country, in respect of the Repeal of the Union; and I further state this, that there is no influence, no power, no authority which the prerogative of the crown, and the existing law give to the government, which shall not be exercised for the purpose of maintaining the union, the dissolution of which would not

have been merely the repeal of an act of parliament, but the dismemberment of this great empire." On the same evening the Duke of Wellington expressed himself to the same effect in the House of Lords.

The next meeting was held at Mullingar, at which Mr. O'Connell, Mr. Steele, Mr. Gray, and Mr. Barrett were present. The number at this meeting was estimated at one hundred thousand—at all events it was a meeting of many thousands. They came to that meeting in pursuance of an order which they received, preceded by temperance bands, and dressed in uniform; and they would find in the course of the observations which he would have to make, that this was not considered by the traversers themselves as an unimportant circumstance. It was part of the system of military organization, and he regretted much that the temperance societies were involved in the political question with which this country had been for so many months agitated. He could not help saying, as he adverted to this circumstance, that, with respect to the rev. gentleman who first carried into effect the object of temperance in Ireland, his strong belief was, that he was influenced by nothing but the purest and best motives; but although he believed this to have been the case, others had taken advantage of that which was not intended for any political object, and had turned it to their own account; and it was singular that in this particular they had in their recollections what had occurred in 1797, and the advice given by the leaders of the United Irishmen respecting the importance of carrying out their plans, that sobriety should be a part of their system. Finding this society organized throughout the country, the purest motives of Mr. Mathew were taken advantage of by the traversers and these temperance bodies formed part of the procession and the organization of repealers. At the repeal dinner at Mullingar, Mr. Barrett, in speaking of the repeal of the union, said, no demon could in diabolical cunning invent one more calculated to perpetuate religious discord, a system in which hypocrisy is made a science, and bigotry a trade; in which the name of Heaven is invoked to let loose the furies of hell, and a God of mercy and of peace is worshipped with bloody sacrifices. This is the atrocious system we have met to-day to put an end to—this the one which Wellington and Peel have fulminated their determination to perpetuate. How do they mean to effect their purpose? By force assailing us, for we have no notion of doing violence on them. But do they know that force is a game that two can play at? This is a national question, and violence now against Ireland would be a war, not a battle, not a riot, but a revolution. I have my own opinion as to the result; but this at least is certain, that in such a case, whatever the result, England would come out of it a broken down third-rate power.

It may be, however, they meditate the gagging system; silencing the association, and dispersing the meetings. Well, the association and the meetings have already done the work which these wise men may fancy their extinction would effect. They have proved already that Ireland is of one mind, and that mind repeal. Can they unrepeat us by silencing us? No, no. We know England now knows the world knows Ireland is united. How will they destroy that admitted fact, or efface its record? We may be silent, but all the time it will be the silence of the old woman's crow. We shall be the d---l for thinking. Yes, silence as gunpowder---

smooth on the surface, only indicating the depth of the waters. We shall crouch, but it will be the crouch of the tiger, ready to take the sure but terrible spring, and clutch our independence. Come what may, the die is cast—repeal must be successful. We have the cause, the leader and the country. A leader worthy of the people, and a people worthy of the leader—sober, forbearing, resolved; and possessing all the virtues which must enable them to attain, while rendering them worthy of national independence. With such a cause, such a leader, people, and clergy, who will despair? There are moments in the lifetime of nations, as individuals, which lead on to prosperous fortunes. If Ireland has missed former opportunities of regeneration, that is only a warning not to miss another. The moment has arrived—instead of vain regrets over the past, let us seize on the present, and take care that this neglected moment may not become the regretted past of a future day. Irishmen, proceed then in the mighty work before you. To recede were ruin. Be firm and you triumph; hesitate and you fall. To suppose you would neglect your present opportunities would be to suppose you would ungratefully reject that refreshing cup of national independence and prosperity which Providence in its mercy seems at last to have presented to your parched and feverish lips." Bishop Higgins said, "I do not claim any distinction as standing by the Liberator on the great question of national independence. I entertained the opinion in common with all the hierarchy of Ireland. Some from delicacy of health, and some from an unwillingness to mingle in politics, may not have yet formally declared themselves—I say all are repealers. Let the foolish ministers threaten—I dare, I defy him to crush repeal agitation in the Diocese of Ardagh. And if the scaffold were my lot I would bequeath my wrongs to my successor." Bishop Cantwell said, that they had long enough tried in vain to obtain justice from England, and that it was time they should endeavour to right themselves."

The next meeting to which he would call their lordships' attention, was one held at Cork, upon the 21st of May. It was said that 500,000 persons had assembled at that meeting. The meeting held at Cork assembled in the same manner as the former multitudinous assemblages, with the same object to accustom those thousands to come from remote distances, and orders were issued to them to accustom them to obey commands, and be in a state of organization, headed by bands; and that when the time arrived to which he had already adverted, they might be ready to come again and receive their orders, when the hour for action should have arrived. At the dinner which took place after the meeting Mr. O'Connell said, "I have been, while addressing you, looking into your minds, exchanging that mental sympathy with you which I feel within me." Oh! to think that in the year 1843, the repeal year, the rent should have accumulated from £56 to £694 per week; and I hope that on Monday next, or some succeeding day, it will close on a thousand, and perhaps more. (A voice—more power to you.) Mr. O'Connell—More power to old Ireland; that is power indeed. Some wisacres went to the Stock Exchange which was going up until repeal was whispered, and then they fell one and a half; and yet they tell me that troops will be sent amongst the people." Mr. O'Connell, in continuation—"Let them attack us; and if they do, what will be the consequence? What would

be the state of the Three-and-a-Half per Cents ? If they did attack us, and that some penniless, shoeless Irishman found his way on the deck of a steamer, to Manchester or St. Giles's, and collected a number of Irishmen about him, and one would ask him ' what news ? ' to which he would reply, ' your father was cut down by a dragoon, your mother was shot by a policeman, or your sister — ; but I would not say what has happened to her ; she is now a wandering maniac, warning her sex against the ruffian soldiery of Britain.' Let him say but that, and I will ask Peel how many fires would blaze out in the manufactories of England. No ; they must discuss the question with us. They must listen to us. They will not attempt to bully us ; for it is not to be done. They shall not attempt to massacre us. No ; the hangman will be disappointed. We are safe, for Ireland reposes in peace. Her thousands are aroused ; and peaceable arms are extended to heaven incapable of being intimidated from joining in the offer I make you ; and the time is come when I am enable to make you that offer. I offer you the repeal of the union."

After briefly commenting on the intention and probable effects of such language, the learned gentleman read parts of the speech made by Mr. O'Connell at the dinner which another of the traversers, Dr. Gray, attended. They were as follow :---" Why should Ireland be treated worse than the convicts in Australia, where representative bodies to conduct their affairs were given to them as well as to every part of the British dominions, and why was Ireland treated otherwise ? It was because she was capable of becoming the successful rival of England. A few days ago Lord Stanley declared, in speaking of the Canada Corn Bill, it was not safe to tamper with the feelings of a vast population ; but he asked were not the feelings of the Irish people to be respected (hear, hear) ? But would France and America and other great powers sit by quietly and see the rights of Irishmen trampled under foot" (loud cheers). He would ask them did they, in their lives, ever hear so inflammatory a speech, or one so calculated to excite the strongest feelings in the excitable population of this country ? They would observe that in that speech Mr. O'Connell had spoken of the ruffianly soldiery of England ; but on the 30th of May a meeting of the association took place, at which five of the traversers were present, namely, Mr. O'Connell, Mr. Ray, Mr. Steele, Dr. Gray, and Mr. John O'Connell ; and Mr. O'Connell then took occasion to correct the report of his having called the soldiers of Britain a ruffian soldiery. The Attorney-General then read the following extract from the speech of Mr. O'Connell, delivered at a meeting of the association on the 29th of May, 1843 :---" Mr. O'Connell said he had to correct a typographical mistake which occurred in the admirable report in the *Freeman's Journal* of the proceedings in Longford. He was made to say this---' No, your sister watched his corpse, but she is herself worse than dead ; she is now a sad maniac roaming through the wilds, and like the wretched maniac of song warning her sex against the ruffian soldiery of Britain.' He did not call the soldiery of Britain a ruffian soldiery ; he would not call them so because it would be false. They were, on the contrary, an extremely civilised class of men, and he expressed more than once that he never now saw a soldier in the dock charged with any crime. When he was called to the bar that was not the case ; there



used to be three, five, and sometimes seven soldiers charged with breaches of the law, but for a number of years it was not so; they never now saw a soldier in the dock, and he would be wronging his judgment if he called them a ruffian soldiery. He also spoke of the serjeants, whom he thought an exceedingly well-informed and well-conducted body of men, and to them the discipline of the entire army fell (hear). If justice were done to them there was not a company in which one of them ought not to be raised to the rank of an officer." In the same paper (*Pilot* of the 31st of May) Mr. Barrett one of the traversers, took occasion to remind the repealers throughout the country, that instead of two weekly papers they could get the three day *Pilot*. He quoted that passage for the purpose of showing that Mr. Duffy, Mr. Barrett, and Dr. Gray used their newspapers, not for the simple purpose of circulating news, but also as instruments of the association in forwarding that conspiracy.

The next meeting which he would refer to was the repeal meeting held at Drogheda on the fifth of June, at which Mr. O'Connell, Mr. Steele, and Mr. Barrett, and also Mr. Tyrrell, now deceased, were present. The streets were decorated with green boughs, and several thousands of persons were present. There were flags used bearing mottos, and among them was a white flag with the motto "We are Irishmen, determined to be free—we are nine millions;" a pretty clear exposition of the objects of the assembled thousands in carrying out by the demonstration of physical force those principles which they thought might ultimately lead to the organization which might finally be arrived at. On another was the motto "A population of nine millions is too great to be dragged at the tail of another nation." On another flag were the arms of America, and on another, "Loyal National Repeal Association; success crowns its efforts." The Attorney General here quoted a speech of Mr. O'Connell of the 5th of June, 1843, commencing, "I want Ireland for the Irish," &c. This was the language of the traverser to a multitudinous assemblage in the second city of Ireland. The next meeting which took place was held at Loughrea, which was followed by a meeting at Longford on the 28th of May.

At this stage of the proceedings the court was adjourned for a quarter of an hour.

The Attorney General resumed by stating that at the Longford meeting Mr. O'Connell and Mr. Steele attended, and the numbers were variously estimated at from 60,000 to 100,000, which was the highest computation; but the numbers were immaterial for his purpose, as it was, in fact, a meeting of the inhabitants of the diocese of Bishop Higgins, which embraced portions of seven counties. At that meeting at an early hour—as was the case at almost all the other meetings—parties arrived from the various counties, headed by bands dressed in uniform. At that meeting eight bands were present, having travelled various distances, fifteen, twenty, and twenty-five miles, to be in attendance. The platform was surmounted by a device which required no explanation, and must be sufficiently intelligible to them—"Ireland for the Irish and the Irish for Ireland." In the town were exhibited banners with other mottos, amongst which was one with the words, "A Nation of nine millions is too great to be dragged at the tail of another nation." The learned gentleman then

read an extract from a speech made at that meeting by the Rev. Mr. Dawson, in which the alleged course pursued by England towards Ireland was attributed to England's knowledge that the sister country was capable of being her successful rival. The learned gentleman then read the following extracts from Mr. O'Connell's speech at the same meeting: "We shall not be in the slightest degree in fault, for we will not violate any law whatever; and I tell you what, if they attack us then—(the hon. and learned gentleman here slapped his breast warmly, amidst the most enthusiastic peals of acclamation)—who will then be the coward (cheers)? We will put them in the wrong, and if they attack us then in your name I set them at defiance." A dinner took place on the same day, at which Mr. O'Connell, Mr. Steele and Mr. Barrett were present. The learned gentleman here quoted from a speech delivered by Mr. Barrett, in reply to a toast given, beginning—"But let them beware," &c. In another part of his address Mr. Barrett said—"Was there ever a country so formed for baffling invasion? Every valley was a ravine and every hill a breastwork. It was a country in which cavalry could not act, and where warfare could not be directed with success against its inhabitants." Then, at the same dinner, Mr. Steele said, "that if Ireland's leader was compelled to resistance, he (Mr. Steele) would then find it his duty to solicit of his friend (Mr. O'Connell) that he would appoint him a leader on the most enterprising expedition, as he was ready to show her dangers should she soon be driven to extremities." There was not (he the Attorney General) would say, much difficulty in understanding either Mr. Barrett or Mr. Steele, or that their language was an excitement, by threats and intimidation, to take advantage of the difficulties in which England might be placed at the first opportunity. The concluding toast at the Drogheda dinner was, "the repeal press of Ireland, as the most powerful auxiliary which Mr. O'Connell had in his undertaking;" to which Mr. Barrett returned thanks.

The next "monster" meeting was held at Kilkenny on the 12th of June, upon which occasion Mr. O'Connell, Mr. J. O'Connell, and Mr. Steele were present, together with about 300,000 persons, some of them with bands and others bearing flags and banners. Mr. O'Connell, in his address, at the meeting, gave three cheers for the Queen's army, the bravest army in the world, and stated that "The class of serjeants it contains is the most educated in existence; and I trust the day will arrive when the serjeants will be in a fair way of becoming commissioned officers." And, at a dinner given upon the same day, when those traversers were all present, Mr. O'Connell spoke of the morning meeting as follows:—"What a waste of physical force have we not witnessed to-day? We stand at the head of a body of men, that if organized by military discipline, would be quite abundant for the conquest of Europe. Wellington had never such an army as we had to-day; there were not at Waterloo on both sides, so many stout, active, and energetic men, as we saw here to-day. Oh, but it will be said, they were not disciplined? If you tell them what to do, you will have them all disciplined in an hour. Do you not think they were as well able to walk in order after a band, as if they wore coats, and that they would be as ready to obey their repeal warden, as if they were called serjeants and captains?" This was the language he (the Attorney-General) adverted to in the beginning of his statement, namely, that

the conspirators conspired together to organize the country by repeal warden, calling the document qualifying them to act, "a diploma;" and Mr. O'Connell went on to say, "they were to be just as ready to march under their repeal warden and follow a band as if they were their captains." He would now call the attention of the court and jury to a publication in the paper of Mr. Duffy on the 10th of June—two days afterwards—which would show the community of those parties. This article he alluded to was headed "The Morality of War;" but it would be more properly styled "The Morality of Rebellion. It went on to say—We have received through Mr. Haughton, a letter from Mr. Ebenezer Shackleton, objecting that the names of Limerick, Clontarf, and other battles, should be placed on the repeal cards, and recommending a substitution of temperance, love, and peace; but, however much we may respect the opinion of this gentleman, we must dissent from him, and consider them mischievous and cowardly, although benevolent; for, admitting that an unjust war, like other unjust things, was to be condemned, a just war, was as noble and had as much right on its side as anything else. It was more noble, and there was more heroism in it than any other occupation; but if the soldier fought to rob, or fought against the land of his birthright, his name died for ever; but if he fought for freedom, may victory be on his side, and may honour wait upon him. If he fall on his country's side, may his fellow-countrymen cherish his name while buried in the tomb." There is another passage of the same article, it says—"We are now done with the subject, and shall not return to it, for we feel no occasion to encourage war, but when it comes our bold hearts will be ready to lead and to fight, and follow the bright example of Miltiades and Washington." Now he (the Attorney-General) would ask the jury, or any rational, honest man, having read that article, whether or not he was justified in stating that it ought to be more properly called "the morality of rebellion," than the "morality of war?" The next meeting took place at Mallow. He had merely alluded to several of those meetings, not wishing to occupy more of the public time than was absolutely necessary. At the meeting at Mallow Mr. O'Connell and Mr. Steele were present. It took place on the 11th of June. There were, he believed, three or four hundred thousand persons present at that meeting. There were 26 temperance bands there, and the same organization by those masses of persons coming from different quarters, as had been observable at other meetings. Mr. O'Connell addressed the meeting; and among other observations he said as follows: "That he loved and honoured the Queen's army; they were the bravest in the world. They were welcome wherever they went. The officers were gay and gallant young gentlemen. The serjeants were the first corps in the world; and he regretted that the custom did not prevail in the British army which prevailed in the French, of giving commissions to serjeants. In France no man was an officer who had not first served as a serjeant, and who had not been recommended for his good conduct, and with respect to the private soldiers, he would say that when called to the bar, he remembered many of them tried for offences; for the last twenty years, however, crime had considerably diminished among them, and for the last ten years he had scarcely heard one of them being in the

doek, or tried for an offence against society." At the dinner Mr. O'Connell said, "But yet do you know I never felt such a loathing for speechifying as I do at present. The time is come when we must be doing. Gentlemen, you may soon learn the alternative, to live as slaves, or die as freemen. No; you will not be freemen if you be not perfectly in the right, and your enemies in the wrong. I think I perceive a fixed disposition on the part of some of our Saxon traducers to put us to the test. The efforts already made by them have been most abortive and ridiculous. In the midst of peace and tranquillity they are covering over our land with troops. Yes, I speak with the awful determination with which I commenced my address, in consequence of the news received this day. There was no House of Commons on Thursday, for the cabinet was considering what they should do, not for Ireland, but against her. But, gentlemen, as long as they leave us a rag of a constitution we will stand on it. We will stand on it. We will violate no law, we will assail no enemy, but you are much mistaken if you think others will not assail you. [A voice—We are ready to meet them.] To be sure you are. Do you think that I suppose you to be cowards or fools. If they assailed us to-morrow and that we conquered them, as conquer them we will one day, the first use of that victory which we would make, would be to place the sceptre in the hands of her who has ever showed us favour, and whose conduct has ever been full of emotion and sympathy for our sufferings. "Have we not the ordinary courage of Englishmen? Are we to be called Slaves? Are we to be trampled under foot? Oh! they never shall trample me at least. I was wrong. They may trample me under foot; I say they may trample me, but it will be my dead body they will trample on, not the living man. They have taken one step of coercion, and may I not ask what is to prevent them from taking another?" "May they not send us to the West Indies, as they have lately emancipated the negroes to fill up their places. Oh, it is not an imaginary case at all, for the only Englishman that ever possessed Ireland sent 80,000 Irishmen to work as slaves, every one of whom perished in the short space of twelve years beneath the ungenial sun of the Indies. Yes, Peel and Wellington may be second Cromwells; they may get the blunt truncheon, and they may, oh! sacred heaven! enact on the fair occupants of that gallery the murder of the Wexford ladies. But I am wrong, they never shall. What is the position in which I stand; What are the enjoyments of life to me, if I cannot vindicate my family and free my country? All that is delightful, all that the enthusiasm of romance can fling round the human heart is centered in my love for Ireland. She never has been a nation; for her own children had her split, and rent, and divided, when the Saxon first polluted her verdant soil with his accursed foot. From that day to this, dissensions and divisions, together with a false confidence in the honor of the enemy, and penal laws, all, all have contributed to keep her in peril and degradation; but the hour is come when her people can be a nation; and if they follow the counsel that they get, their country will be free and will be their own. I feel it now my duty to warn you against these Saxons; perhaps a few days will tell us what they mean to do. I hope my dream of conflict will never be realised; that it is an empty vision; but let none of

us be to blame. Let us stand shoulder to shoulder on the constitution, and let not Ireland be abandoned to her foes, by the folly, the passion, or the treachery of her children." Gracious God! was there ever heard such an attempt to create, between fellow subjects of the same empire, the sting of indignation, to be excited against those who were called "our Saxon oppressors?"

Was it to be tolerated, in a country where the law was in force, that a proceeding such as this should be permitted? And (addressing the jury) they had a solemn duty to discharge—was this country to be handed over to such persons, whose objects were those of furious republicanism? The learned gentleman then alluded to the meeting at Dundalk, and read the following speech of Mr. O'Connell's—"We have ascertained that the Irish nation wills the repeal of the union, I do not however cease my exertions in calling together thousands of people. I do not cease or terminate with this day. No, next Sunday week I will fulfill my engagement at Waterford, where, as multitudinous a repeal meeting is to be held on that day. I will attend another repeal demonstration that day week at Tullamore, the centre of Ireland. That day week I will be in Tuam, in Connaught, where a meeting is to be gotten up under the auspices of John of Tuam. In three days after, I attend another at Castlebar. I have not fixed any other appointment yet, but I am called upon to fix others, and in every one of these meetings I will find the same tranquil determination, the same resolution that Ireland shall be a nation, the same determination never to abandon the pursuit of this sacred cause, until it ends in success. And I want to know, where under heaven, or adding to it the fiends of hell, is malignity so strong, or power so strong, or power so resolute as to deny repeal if all Ireland demands it? However, having already ascertained that it is a national movement, it may be asked, why I took the superfluous trouble of attending this meeting? I will tell you at once. I attended not to convince myself, nor you, that Ireland is with us, but to convince our enemies. The British statesman and the Duke of Wellington is aware of it, dotard as the poor old man is. I want to make all Europe know it. I want to make America know it. I want to make England feel her weakness if she refuses to give us that justice which we demand—the restoration of our domestic parliament. Why, do they imagine that I intend to stop by mere meetings? If the echo of the meetings does not achieve my business I am bound to do something substantial. The basis of my future operations are the meetings, satisfying friend and foe that the nation is with me individually, and that man by man are all ready if it were justifiable to perish to the last man. Nothing could justify the exercise of the sentiment thus proclaimed, but the inevitable necessity created by an attack upon us; and I have the pleasure to tell you we are too strong to be attacked. Sometimes there comes over me a temptation. I am tempted almost to wish that they would attack us; but it is a wild and idle thought. I derive from it, however, the certainty that they won't venture to attack us, and the consoling certainty that if they did venture the result would not be doubtful. I am not afraid of getting a substantial portion of the people of the north with me, and then the national movement will be complete, and the next step must be taken. The next step will be to

consider the plan for the new Irish parliament. The towns that ought to send members to the new Irish parliament will be ascertained by taking up the population in 1831, so that no favour is given to anybody. Every town having 9,000 is entitled to representation, and that with county members will make up 300 members. In order to carry out this plan I will propose that each town so entitled to representation do lay down 100*l.*, and with the aid of the individuals whom they select, we will meet in Dublin to consider the plan I have suggested. Any town that refuses to make that sacrifice, I do not think would deserve to have a member in the Irish House of Commons. If the individuals chosen are not ready to make that sacrifice for the towns, they do not deserve to be returned for those towns afterwards. I would thus have 300 gentlemen assembled in Dublin by accident. A treasury will be formed by the impouring of the sums I have specified, and they can dissolve themselves the next day, if the law requires it. And what is to prevent me asking those 300 gentlemen to a public banquet, which nobody else shall attend but themselves and me. I do not see why we should not have our conciliation board, not sitting as deputies, but merely happening to have the confidence of localities. I have made my plan. I have examined well the act of parliament, and will drive 300 gentlemen through every clause of it. There is no legal objection to that plan. There will be 300 men with the nation to their back. There remains only the assent of the Sovereign, and I tell you distinctly it can at once be revived legally, and constitutionally, by the mere exercise of the prerogative of the crown; by the issuing of writs can it be revived without going to the British parliament at all? It shall be necessary to have a keeper of the Great Seals. The Chancellor of Ireland (will it be Sugden)? Sugden would take it if he was paid for it. But the moment the minister of the crown in Ireland told him to sign the writs for summoning the Irish parliament he should do it, and by the return of those writs the parliament would be in College-green.

The plan is perfectly simple—it requires a nation to back me, but I will have a nation at my back. Let nobody dispute this with me that does not dispute the Queen's title to the throne." And now what is the assertion—the assertion made to the deluded people of this country, who had been told from time to time by the late ministry and the present, and by the majority of parliament, that they would not listen to any step which would lead to the dismemberment of the empire—they were told that her Majesty might issue writs for the summoning of an Irish parliament; and they were told this by a gentleman standing eminently in his profession at the bar, and he was consequently in this position—that either he did not think what he stated to the assembled thousands; and that being the case, what position was he in? or if he did think it, would it be asserted now? He would next advert to the Act of Union, for the purpose of ascertaining if this opinion was well founded. The extracts quoted by the learned gentleman were as follows: Article 3—"That it be the third article of union that the said kingdom be represented in one and the same parliament, to be styled 'The Parliament of the United Kingdom of Great Britain and Ireland.'" Article 4—"That when his Majesty, his heirs or successors, shall declare his, her, or their

pleasure for holding the first, or any subsequent parliament of the United Kingdom, a proclamation shall issue under the Great Seal of the United Kingdom, to cause the Lords Spiritual and Temporal, and Commons, who are to serve in the parliament thereof on the part of Ireland, to be returned in such manner as by any act of this present session of the parliament of Ireland shall be provided, and that the Lords Spiritual and Temporal, and Commons, so returned as aforesaid on the part of Ireland, constitute the two houses of the parliament of the United Kingdom."

And whereas the said articles having by address of the respective houses of parliament in Great Britain and Ireland, been humbly laid before his Majesty, his Majesty has been graciously pleased to approve the same, and recommend it to his two houses of parliament in Great Britain and Ireland to consider of such measures as may be necessary for giving effect to the said articles. In order therefore to give full effect and validity to the same, be it enacted that the said forgoing recited articles, each and every one of them, according to the true intent and tenor thereof, be ratified, confirmed, and approved, and be, and they are hereby declared to be the articles of Union of Great Britain and Ireland, and the same shall be in force and have effect for ever, from the 1st day of January, which shall be in the year of our Lord one thousand eight hundred and one: provided that before that period an act shall have been passed by the Parliament of Great Britain for carrying into effect, in the like manner the said foregoing recited articles." Thus they had those articles ratified and approved of by the Parliament of Ireland, that the United Kingdom be represented in one and the same Parliament; and in direct opposition to this legislative enactment of the King, and the Lords and Commons of this country, and confirmed by an act of the English legislature, uniting the parliaments of both countries for ever, they were told that it was part of the prerogative of the crown, without the assent of the Parliament of the United Kingdom, to summon an Irish Parliament in Ireland; and they were further told that no person could deny this who did not deny the Queen's title to the throne. Now, he asked, was there any counsel on the other side who would say that this Act of Union is void?

Mr. O'Connell—Yes.

The Attorney General—Unless he said that the act was void, no language would declare that the prerogative of the crown was in existence to the extent it was thus stated to be. The next meeting was held at Donnybrook at which several thousands attended, and which was distinguished by the same display of physical force. This meeting was attended by Daniel O'Connell, John O'Connell, and Dr. Gray. At this meeting Mr. O'Connell addressed the people. The learned gentleman then quoted the words of Mr. O'Connell, commencing with "what a glorious sight," and finishing with the words, "we will have the country for ourselves." Upon that occasion, as upon the various others, they had impressed upon the minds of the people that there was to be no riot, no disturbance, no turbulence; but peace was enjoined, because the conspiracy could not be carried on if there were any riot, or violence, till the period arrived when the signal was to be given. Physical force was only to be made use of in the first instance, for the purpose of organization, which was afterwards to be

made available to "make Ireland a nation again, and strike off the dominion of the foe and the foreigner," which meant a repeal of the union between Great Britain and Ireland—Great Britain being the foe and the foreigner. He (Mr. O'Connell) continued to say, "But the assertion to which he had alluded, relative to the introduction of a bill into parliament for the carrying of repeal, was all a falacy, for he had the satisfaction to tell them that it was not necessary that any such bill should pass the Saxon senate. The Queen had it in her power at any moment to summon the Irish parliament again into existence. The first lawyers in the land—the lawyers who were most deeply versed in matters relating to the spirit of the English constitution, had given their opinion to this effect. Saurin, Bushe, and Plunket had all of them concurred in declaring that the Irish parliament had no legal right to pass the act of union. Such a proceeding on their part was at direct variance with the spirit of the constitution; for men who had the audacious presumption to barter a nation's birth-right had been sent into parliament to make laws, not to abolish legislatures.

"These great authorities denounced in language of the most fiery eloquence the nefarious proceeding which was then in contemplation, and pronounced the union to be void in point of law and principle, inasmuch it was an act which they who connived at it had no power or authority to perform. Plunket, with a force of imagery and a sublimity of language which it was impossible to commend too highly, declared that as well might the frantic suicide imagine that the act whereby he destroyed his miserable body could annihilate his immortal soul, as the Irish representatives imagine that they had any power to spoliolate Ireland of her constitutional inalienable right to have a parliament of her own. What was the consequence? The consequence was, that the fatal act of 1800 was founded upon no fundamental principle of the constitution, and that the Irish parliament was not dead, but only sleepeth. The Queen, (whom may God preserve and defend), could give directions to her authorities in Ireland to-morrow, to cause the issue from Chancery of writs for the holding of an Irish parliament." Now, (continued the Attorney-General), what was the statement thus conveyed to the country, and to the congregated and assembled thousands? It was that Mr. Saurin, Chief Justice Bushe, and Lord Plunket, had declared the act of union void. He (the Attorney-General) told the gentlemen that these personages never did any such thing, and that they never said so. They made strong observations in their places in parliament before the act of union was passed. They opposed the passing of the act, as they had a right to do, entertaining the view they did, and observations were made by them during the course of the debate. Amongst other observations those of Lord Plunket were cited, for the purpose of showing and instilling into the minds of the misguided people who heard him, that those eminent persons had, after the act of union, declared its invalidity.

Mr. Moore, Q. C., here rose and said—My lords, I take the liberty of suggesting, if there be no likelihood of the Attorney-General being able to finish at a reasonable hour to-night, that an adjournment should take place. We had a long sitting yesterday, and, if convenient to the learned gentleman, it might be as well that the adjournment should take place now.



The Attorney-General—It is quite impossible for me to close my statement to-night; but I have no objection to proceed for a short time longer, and then adjourn. The learned gentleman then said it was clear that the observations made by Mr. Saurin and by Lord Plunket, were made by them in their places in parliament, with the legitimate intention of inducing the Irish House of Commons not to pass the act. It was clear that such expressions were never used after the passing of the act, and equally clear that such a line of observation was adopted at public meetings for the purpose of deluding the people into the belief that they had been so used. At the Donnybrook meeting Mr. O'Connell had adverted to certain moneys received from America, and, accordingly, on the 5th of July it was handed in from those sympathising Americans, with the statement that it was given in on that day, because it was the anniversary of American independence. The learned gentleman then read the speech of Mr. O'Connell, which was as follows :—"I shall next proceed to hand in the sums of money I have received from America, and this is an auspicious day to talk of the Americans. This is the 4th of July, the anniversary of their independence. I believe that cheer will go on the western winds with the rapidity of the lightning flash and the force of the thunderbolt, and crossing the thousands of miles of the broad Atlantic, be heard amongst the towns, and along the rivers, and amidst the lofty mountains of America. Oh! how I pity the man that is not delighted at the feeling that the Americans obtained their independence. They did not turn out in wanton and violent rebellion, or commit any aggression against the English power. No, on the contrary, they were submissive to the English power, as long as they were permitted to submit, until a tyrant monarch (and a greater tyrant never filled the throne, both in intention and disposition, than George the Third,) compelled them to resist.

The Americans suffered every species of injury; they were robbed of their rights; they were refused the privilege of self-legislation; they endured every thing until England passed an act annihilating their domestic legislature. They bore all until England attacked them with open arms; they then (and may God bless their posterity for it) resisted; they fought the good fight and they conquered gloriously in the cause of liberty and independence. I am sure that England has since grown wiser; I know that she is weaker than she was then. I beg to hand in the following sums from America.---From Brandywine £7, Wilmington, Delaware, £23; City of Brooklyn, New York, £49 3s. 5d.; Boston, £100; Philadelphia, £400; New York, £500. Total £1,079 3s. 5d. Halifax, £20. The next meeting to which the learned gentleman adverted was that held at Tullamore, at which it was stated there were one hundred and fifty thousand persons present, from the counties of Westmeath, Tipperary, King's, and Queen's. The learned gentleman then proceeded to read the speeches of the Reverend Mr. Tierney and of Mr. O'Connell, which were as follow :---The Rev. Mr. Tierney---"The imagine that by a course of liberal government in Ireland they could put a stop to the repeal agitation by giving up the church temporalities; that by enlarging the franchise and increasing the constituency in Ireland, they hope to detach us from the great and paramount consideration of this question. They might concede all these and even more---most likely they

would tempt the Liberator with fair promises in addition to some good acts, but he was too wise for them. He was never yet overreached by an English government--he has always been the watchful, wary, and undeceived advocate of his country's wrongs, and we may safely leave him to take everything that they give; but as soon as he gets all, never was the steam of repeal up till then.

"Allow me then not to take up your time any longer than to read the resolution" (shouts of repeal, repeal, repeal.) Mr. O'Connell—"I rise to address you upon a new topic that I scarcely ever touched on before. I have a new theme now to dilate upon, and it is with infinite pleasure that I now announce to you the certainty of our carrying the repeal of the union. When I addressed former multitudinous assemblages of the people, I endeavoured to show them the advantages that would result from a repeal of the union, that nothing would do good for Ireland but the restoration of her own parliament. Upon that topic I dilated often and was able to demonstrate that Ireland must continue in misery unless she had her own parliament. My object was to excite them to exertion, and I threw in the ingredient of hope, because a struggle without hope is a vain and tedious operation; but now I need not talk of hopes, for I came here to announce the certainty of repeal. In my former addresses I called upon the people to aid me in the struggle I was making; I continue that call still, but I have to add to it, that success is placed beyond all possibility of doubt. You have only to persevere and redouble your former exertions, if possible, and the battle will be won. We have got upon vantage ground, and must not only endeavour to keep it, but we must advance still further on the road to victory, and it is certain that we shall carry repeal as that the sun is now shining upon you. To be sure that certainty is to be attributed chiefly to our own simultaneous and multitudinous exertions from which success, so far has entirely resulted. Have I not teetotalers here? (yes.) I am proud of your confidence. I can collect you together at any time. If I want you I can get you any day in the week. (A voice---'The sooner you want us the better.')

Oh! little the Saxon knows that gentleness of manner that arises under religious enthusiasm; that forbearance that springs from the religious principle deeply impressed upon your hearts from your earliest infancy. But it is that very religious forbearance that makes you kind to each other, and that enables your women to come into the greatest throngs without being injured, and certain not being insulted; but if it should be necessary for you to remain in the field till blood should flow, general never stood by such soldiers. I have the bravest and most moral people to deal with; but you must combine, there must be no treachery among you, and it is treachery to vote for any one but a repealer.

"I have heard of some parish in this county where some repealers voted for a tory; however, we will say no more about it at present; but now I command never to vote for any tory, nor for any one else but a repealer. A friend of mine was coming down from Dublin and saw a man working in a kind of Botany Bay of his own, a number of men were working near him but left him to work in a part by himself, solitary and alone, and refused to hold any intercourse with him. My friend was afraid that

they belonged to some secret society, and addressing them said, that he hoped that they were not ribbonmen that they refused to let that poor fellow into their company; but what was their answer? 'Oh! that fellow refused to become a repealer.' These good men were combined for the cause of repeal, and it is absolutely necessary that you should be doubly active now. I cannot afford to leave out man, woman, or child, without becoming repealers. Let every one join with me in the call for repeal, and the shout will reverberate to England—the Saxon will be aroused from his slumbers—the echo will be borne on the wild waves, and the union shall be, must be repealed." The Attorney General next read an extract from the speech of Mr. O'Connell at a meeting of the Association, held on the 19th of July, when the plan of establishing repeal arbitrators in each parish was first mentioned, which was as follows.—"I move the adoption of the resolution for the appointment of arbitrators in each parish, to whom the people are recommended to go in preference to the petty sessions courts. It is a duty I owe to Dr. Gray to state that the suggestion for bringing forward that resolution first came from him, and that he had kindly given way to me at my request, in allowing me to move its adoption. I would wish Dr. Gray would now second the motion." The occasion to which he referred was the first on which that assumption of one of the prerogatives of the Crown was taken in the endeavour to establish courts throughout the country, and to take away the administration of justice from the tribunals established by law.

On the 21st of July, a meeting was held at Tuam, at which Daniel O'Connell, Thomas Steele, and Richard Barrett, were present. There were the usual Temperance bands, he believed twenty in number, present; and he believed there were some hundreds of thousands of people collected on the occasion. A dinner took place in the evening of the same day, at which the same three traversers attended. He then read an extract from Mr. O'Connell's speech at the dinner which was as follows:—"The strength of their enemies was shattered, they were distracted and divided in their weakness, and if the people had the grace and the skill to make their adversaries' infirmity the opportunity of their own liberty," the good fight was fought, the gaol of freedom was won, and Ireland was again a nation. That Ireland was in the right, that her population were justified in the gigantic efforts which they had latterly been making for the attainment of their legislative independence, that they had experienced such treatment for a long series of years, at the hand of England, has fully warranted them in the protection of a native senate, were facts which admitted of disputation on the part of rational dispassionate men, and which were acknowledged without qualification by all the nations of the universe. America sent her voice of thunder careering over the illimitable waters of the great Atlantic, to tell them they were justified in all their proceedings. Admiring France looked on with breathless interest, and all Europe had her eye fixed with an intensity of vision on the magnificent demonstration in favour of liberty whereof Ireland was now the theatre. He would be happy if he saw his country free. Oh! let them resolve as one man to achieve her freedom, and the day of her glory was assured. Oh! give a portion of your being to your country.

You would give her all your blood if it was a battle to the death. Pray for her, toil for her incessantly; she is worth your prayers, she is worth your toil---

‘ Oh, Ireland, shall it e’er be mine,  
To raise my victor head and see  
Thy hills, thy dales, thy people free,  
That glance of bliss is all I crave  
Between my labours and my grave.’ ”

On the 26th of July a meeting of the Association was held, at which the two Messrs. O’Connell, Mr. Ray, Dr. Gray, and Mr. Steele attended, and at which Mr. O’Connell alluded to a plan by which the estates of the Irish Society, situated in Ulster, were to be confiscated. He had next to call the attention of the Court and the jury to an important meeting that took place at Baltinglass; but as he could not possibly conclude his statement on that night, he wished to suggest to the Court whether that might not be a proper time to adjourn, as he did not wish to fatigue the jury.

Chief Justice—We do not wish by any means to press you to fatigue yourself, Mr. Attorney General.

The Attorney General then sat down at a quarter before five o’clock.

The Court being about to adjourn, the jury were leaving the box, when

The Chief Justice required them to remain for a few moments, and then addressing the Attorney General, he said—Did you think at all what should be done with the jury between this and the morning?

The Attorney General—That is a matter resting entirely with the court, and to show that this is so, I hand up to your lordships the case of the King v. Kinnear and others. The matter is one resting in the discretion of the court, and if your lordships should come to the conclusion that, the gentlemen ought to remain, the Hight Sheriff, as occurred in other state trials, will get accommodation for them at an hotel, where they will meet with every comfort and convenience, consistent with the circumstances of the case.

The Jurors here consulted among themselves as to what they would wish to be adopted.

The Chief Justice—Have you, Mr. Moore, taken into consideration the subject of the jury?

Mr. Moore—Indeed I have not, my lord.

Mr. Hamilton, (the Foreman)—It would be a very serious injury for men of business to be locked up for a month or so (laughter).

The Chief Justice—I hope there is no truth in what you anticipate, and I did not expect that my suggestion would have been received in this way. I did expect to have had assistance from both sides.

Mr. Moore—I am prepared to give every assistance.

The Attorney-General—As your lordship has put the question, it does occur to me that in a case of this great and vast importance there is nothing so desirable, with a view to the due administration of justice, than that no opportunity should be given to communicate with those empannelled to try it. It appears to me that although it rests with

the court under the rules applicable to misdemeanour cases, to decide upon this matter exclusively, yet considering the seriousness of the present charge of conspiracy, it does appear to me that the more proper course to adopt would be not to permit the jury to separate. I am bound to state this as my opinion as your lordships have put it to me, but they ought to receive the best accommodation under the circumstances, and to be sent to a neighbouring hotel, where the sheriff can keep them together during the pendency of the proceedings. This was done in Hardy's case and in others; and however inconvenient it may be on the gentlemen, yet in the discharge of a public duty, I would not be discharging my public duty if I did not state my opinion that they should not separate.

A Juror said that it was an arduous duty for those who were engaged on business to attend such a trial as the present, even if allowed to go home at night; but it would be more injurious to them if they were prevented from going home and attending in some measure to their affairs.

Mr. Rigby---The jurors are mostly men of active habits, and for myself I must say, that I have sat more during the last two days than during the previous six months (laughter). It would be a very serious matter for me to be deprived of exercise as I am in the habit of being on my feet for nine or ten hours in a day, and the sudden change is sensible on me already.

The Attorney General---I should be the last man to subject those gentlemen to any inconvenience, but if they are permitted to separate, I am sure it will be impressed upon gentlemen of their respectability that they will not permit any communication to be held with them.

Several of the Jury said "hear, hear," and this excited some laughter.

The Attorney General---I do not wish to be understood as making any imputation against the traversers, or their attorneys, but in cases like the present, persons sometimes interfere in the matter who are not employed.

Mr. Rigby---If any communication were made to me I would feel it my first duty to apprise the court.

Mr. Moore---I was very unwilling to make any suggestion that the jury might be at liberty to depart, because imputation might be cast upon the traversers; but now that the proposition has come from the Attorney General, I upon the part of the traversers, do not hesitate to accede to the jury being subjected to the least possible inconvenience, and I fully concur in the observation that there should not be at either side, and I trust not on the part of the traversers, the slightest interference of any kind with the jurors.

The Chief Justice then addressed the jury, and said---Gentlemen, you will bear in mind the propriety of the suggestion thrown out by Mr. Rigby, namely, that if any one were to be so ill-advised as to venture to communicate with any of you, directly or indirectly, upon the subject matter of the trial, you would at once forbid him, and, if necessary, complain to the court, (hear, hear, from the jury). The Crown are satisfied that you should separate and go to your own homes, and we expect to meet you here a little before ten in the morning.

The Court then adjourned shortly after five o'clock, and there were but few persons outside when the traversers left.

---

## SECOND DAY.

When their lordships had taken their seats, and the jury and traversers had been called, and had respectively answered to their names,

The Attorney-General resumed his statement upon behalf of the crown. He said that on the 6th of August last there was a meeting held at Baltinaglass, in the county Wicklow, and at that meeting three of the traversers were present—Mr. O'Connell, Mr. Steele, and Dr. Gray. There were many thousands of persons assembled: some of the defendants calculated the number at 150,000. Mr. O'Connell addressed that meeting, and stated amongst other matters—"And shall they tell me that that parliament, which by force and fraud was extorted from us, is never to revive again, and that Ireland alone is to be condemned to perpetual servitude? I deny it; I call upon you to deny it with me; give me your universal promise that Ireland shall be a nation. If I want you again would you not be ready at my word? let every man who is determined to meet me again, on any future occasion, where I would require his presence for peaceable purposes, hold up his hand. If bogtrotter Fenton could take that shout down upon paper, and transmit it to his patron, the noble lord might be brought to comprehend what was the state of true popular feeling in Ireland. Remember my motto is, 'Whoever commits a crime gives strength to the enemy;' that is the doctrine we preach everywhere, and we will soon have 3,000,000 of men who have preached and practised it, and I tell you that no statesman ever lived who could resist a population of that kind; but we must persevere."

It was by no means important at meetings of this kind to inquire what had been the effect produced upon those who heard these inflammatory addresses. He was in a position to prove the observations of some of those assembled thousands. One man was heard to declare—"We are determined to get repeal, as we are all sober, and shall not be put down as we were in 1798." Another observed—"Let us wait with patience for a few months; the time is nigher than you think; Ireland was trampled on, but it shall be no longer so." Others exclaimed they would turn out to a man and fight for repeal. Others exclaimed that they would and should have repeal, and that this part of the country would die to a man, but that they were afraid of the sea-side fellows not standing to them, and that Father Lawler told them in the chapel it was too far gone now, and that they should get, but not without blood being shed. Some persons amongst the lower orders were heard to say that if they were not sure of getting it, there would not be a blow of work done in Ireland, and that the people would rise to a man. Others contradicted this, saying the people did not intend to raise disturbance, but that the only way they wanted to get their rights was by peace, but on being refused that foreign powers were to strike the blow. Such were the observations of those deluded men, caused by the language addressed to them; and was it not calculated

for the destruction of the peace and prosperity of the country? "The time is nigher than you think." That accounts for the observations made at different meetings---"Every man of you, if I want you again, will, you not be ready at my word."

A dinner took place on the same day, at which also Mr. O'Connell, Mr. Steele and Dr. Gray were present. Mr. O'Connell on that occasion said---"Remember my motto is---'Whoever commits a crime gives strength to the enemy.' That is the doctrine we preach every where, and we will soon have three millions of men who have preached and practised it, and I tell you that no statesman ever lived who could resist a population of that kind. But we must persevere. Those meetings I intend to go on with until such time that no part of Ireland shall have not pronounced, as they say in Spain, or shall have declared their adhesion to our cause. The revolution in Spain was brought about by the military; but it was bloodless; and the tyrant Espartero has been hurled from power by the party of the army and the nation. The serjeants even of the Spanish army were a fine class of men, and effected that revolution; but in the British service they are the finest, the most intelligent, and the most trustworthy men that ever existed. In every other service the serjeants are made officers of; but in the British service they have not yet learned to do that act of justice; but if our cause goes on, we will do them this piece of service, that the government will alter their plan, and appoint a great many of the serjeants to commissions, for fear they would pronounce, and I give them advice to do so, from this spot." Now they would understand the passage, "The tyrant Espartero has been hurled from power by the party of the army and the nation." As repeal advanced, the army were to look for promotion; and he would refer to publications by and by which would show the means adopted by these parties to create discontent in the army, so as to render the government powerless. Mr. O'Connell went on to say, "What I mean to propose is, that a Preservative Association should be formed, which would be preservative of everything worth preserving, and obliterative of every thing that ought to be obliterated. That every member of it should find out or produce one hundred pounds each as a proof of the trust that is reposed in them in their own neighbourhood, or of their own generosity towards the country. I will take care of the law, and that there shall exist no power of prosecuting or indicting any of its members. I trust that before Christmas comes we will have that Preservative Society sitting in Dublin and drawing up bills which they would call on the British parliament to pass; and if they refuse to do so, then respectfully calling on her Majesty the Queen to call her parliament together in Ireland again." And then, as they heard yesterday, they would hand over to her the sceptre of this country; but, of course, on such terms as those persons engaged in the conspiracy should think fit. Mr. O'Connell proceeded to say, "I repeat, the practical details of my plan are not yet worked out; but I wish to announce this general outline of it, that it may be fomenting in the Irish mind, and be digested by others as well as by myself: and I trust that before I have another birthday I shall see Ireland righted, and her parliament in College-green again." He thought it would not

be necessary for him now to advert to anything that occurred in the interval between the date he had given, the 6th of August, and the date of the 12th of August; and, as he stated yesterday, he had abstained a good deal from commenting on the organization throughout the country. The character of those multitudinous meetings would be more truly pointed out in the language of one of the defendants, Mr. Duffy. He begged leave to call the particular attention of the jury to this publication of Mr. Duffy, of the 12th of August, six days after the meeting at Balinglass, and which would throw some light on the nature of the charges brought against these parties for conspiracy. The article was headed, "The March of Nationality," and was as follows:—"How beautiful our country is! How full of cautious energy! How sure a hope lies under her anxiety! How fiercely she springs upon what it is right to strike! How temperately she avoids all needless by-battles! And 'tis beautiful---lovely, with that piercing beauty that pains the heart which worships---to see her calming down, and soothing, and repressing her hungry and bruised children, while she prepares for them retribution and relief. Her brow is pale---most pale; and well that careful mien becomes her. Oh! 'tis well to see her preparing for the strife without rude boasting or hot noise. It becomes the heiress of suffering centuries. It becomes a memory laden with a thousand transient glories and baffled hopes. It were unseemly in her, for whom an army of unavenged martyrs garrisons her soil; it were unseemly in her, whose children feel such pangs and woe; and most unwise and unbecoming would it be for her, with so trying and so vast a contest before her, to wear one rude or reckless look. Let us see what has been done, and what remains. What were we a year ago? The squabbling and impotent serfs of England? Here a master mind, and there a heart prophetic with enthusiasm, foresaw the time when a people, owning all that gives the power to be a nation, would scorn to serve.

They foretold that eight millions, with all that enforces independence upon man, with the oldest and most varied history in Europe, with the deepest wrongs, and having their old wronger for their present tyrant---with a home marked apart by the ocean---with limitless misery and limitless resources---were destined to be admirable and strong among the nations of the earth. But now---oh! joy and praise---apathy and distrust have fled. The storm of nationality has rent the cloudy pall which closed around us; even now it scatters the dark masses, and lends us glimpses of serene liberty. We ask those who still hesitate to remember what has been done in a year. The repeal rent was fifty or a hundred pounds a week; it is now on an average fifteen hundred. The enrolled repealers were scarcely a couple of hundred thousand; they are now running towards two millions. It had then half a dozen Protestant members; it has now thousands---from the wealthiest of the gentry to the most stern of the democracy. The entire Catholic hierarchy and priesthood have given it open support, or tacit assent. There is no one worth naming in Ireland actively hostile to it. Most of the counties of Leinster and Munster, and some in Ulster and Connaught, have come in masses together to declare that they are ready to make any sacrifice---money, repose, or life---to achieve their independence. There is nothing recorded in history like this display; the numbers of these meetings were unequalled



in any population. The time, and labour, and loss suffered by the people, in their long marches to them, were never before voluntarily borne, save in the excitement of war. But the order observed in coming and going---the organization necessary to produce such order---the serious good temper---the absence of riot or vice, made each of these meetings a strange and formidable event."

It was true that at these meetings Mr. O'Connell preached peace, it was true that he wished these meetings to obey his injunctions to disperse peaceably, and every person must rejoice that his injunctions were obeyed. But the absence of the commission of actual violence, however they might rejoice that that had been the result hitherto. It did not take away, he contended, from the illegality of the meetings, because the intention was to organize the country throughout, so that they should be peaceable until it was complete; but he felt that the absence of riot or vice, in the words of Mr. Duffy, made those meetings strange and formidable events. The article in the *Nation* proceeded thus:---"There was a time when such meetings might have been plausibly resisted by our despots, and the country forced to a premature contest, Now there is no such danger. The meetings have been held, and no single event has occurred to furnish the worst minister with an excuse for preventing their repetition. The stopping of them might hazard public peace; not on that instant, for the people know their policy too well for that, but such oppression might ultimately produce war. The continuance of them has caused no offence---the repetition of them prevents crime, by giving the people hope from a higher source than parish law, and surer justice than revenge. No power dare interfere with those meetings now. If the repeal organization, by general, provincial, and baronial inspectors, by wardens and collectors, by volunteers, members, and associates, have any efficiency in it, it will now have a fair trial. A far inferior machinery, though checked and hampered, carried emancipation. The present organization will be extended to every parish in Ireland, and perfected in every parish. The whole nation will be arrayed under that system. There is a full purpose in the minds of the repeal leaders not to rest until it is carried out. "The people will gradually, but surely, be arranged, classed, organized, and bound together. Subordination of ranks, community of thought, obedience to orders, firm trust in those who command, constant activity in teaching and learning the means of liberation, are rapidly becoming general. Nor will the organization stop at arraying the people in their parishes, and massing them all under one will; it will every day extend its operations. It has resources in it to advance, as well as to maintain itself. Even now a step lately taken is about to be carried into active operation. Arbitrators will be appointed in every barony. If they should, as we are sure they will, be men of education and pure character, all-disputes will be referred to them, and their decision will be obeyed more exactly than any judge's in the land. We have an organization well understood by the people, and applicable to any national exigency. We have an indestructible tie binding the highest and lowest for a common end. We have many, even of the accessories of national pomp---our bands for instance. We have education, temperance, and

patient resolve. We will, when our system is finished, have the form as well as the bulk of a nation, who, then, will dare to question our independence? He will be a bold minister who believes that the professions of France and America are not idle boasts, and yet draw his sword against Ireland. But again we tell Ireland she must free herself by her own might. We have much to do. After all that has been done, we are only at the gate of the temple. Ere we reach the altar, we must overcome many a foe, and correct many a vice; we must bear, and battle, and be steadfast."

The article, which was read at length, and of which the foregoing are isolated passages, thus concludes:—"The Protestants must be won. They have no interest different from that of the Catholics. The riches and glory of Ireland would be theirs in perhaps a larger proportion. It is sheer folly to suppose they can continue to sacrifice interest, patriotism, charity, and happiness to the wretched dreams of an ascendancy which England will as little tolerate as Ireland. Bigotry, or neglect, or fretfulness can alone prevent them from accepting the blessings offered them. If treated as they ought to be; if treated as they have a right to be; they will all take posts in the ranks or the councils of the nation. Organized and united we will be free." That was the statement made by one of the defendants of the state of the country at that time, of the effects of the organization, and of the objects of the persons engaged in planning, in arranging, and in carrying out their designs. He should now proceed to the next meeting, which was held in four days afterwards, namely on the 15th of August. In three days after that publication two meetings were held, one at Clontibret, in the county of Monaghan, and the other at Tara. At the meeting at Clontibret, one of the defendants, the Reverend Mr. Tierney, was present. The other was the more remarkable of the two—the great meeting. At that meeting were present Mr. O'Connell, Mr. John O'Connell, the Reverend Mr. Tyrrell (now no more,) Mr. Barrett, Mr. Steele, Dr. Gray.

Now the locality of Tara has been selected for this meeting upon two grounds. The first, because it had been the place where the monarchs of Ireland had been elected; and secondly, it was the scene of a battle in the rebellion of 1798, where there had been a defeat of those engaged in that rebellion. The highest calculation that was made of the numbers at that meeting was a million; he believed the lowest was upwards of a hundred thousand. There was, of course, a great difference between those numbers, but a meeting of a hundred thousand men was a formidable event. They had selected that a spot for the grounds he had mentioned, to endeavour to exasperate the minds of the people if they could, with reference to the recollection that it had been the scene of the defeat of those engaged in the rebellion of '98, and actually hundreds; he might be believed, say thousands; of persons were seen upon their knees plucking a wild plant growing over the graves of those who fell in the rebellion, and who were buried there. A wild geranium, with a red leaf; under an impression which these poor people had, that the colour of the leaf arose from the slaughter of those who fell there. At the meeting at Tara Mr. O'Connell addressed the multitude, and said; "Yes, the overwhelming majesty of your multitude will be taken to England, and will have its effect there. The Duke of

Wellington began by threatening us. He talked of civil war, but he does not say a single word about that now. He is now getting eyelit holes made in the old barracks. And only think of an old general doing such a thing; just as if we were going to break our heads against stone walls. I am glad to find that a great quantity of bread and buiscuit has been lately imported, and I hope the poor soldiers got some of them.

"But the Duke of Wellington is now talking of attacking us, and I am glad of it. But I tell him this; I mean no disrespect to the brave, the gallant, and the good-conducted soldiers, that compose the Queen's army; and all of them that we have in this country are exceedingly well-conducted. There is not one of you that has a single complaint to make against any of them. They are the bravest army in the world, and therefore I do not mean to disparage them at all; but I feel it to be a fact that Ireland, roused as she is at the present moment, would, if they made war upon us, furnished women enough to beat the entire of the Queen's forces. At the last fight for Ireland, when she was betrayed by having confided again in England's honor; but oh, English honor will never again betray our land, for the man would deserve to be betrayed who would confide in England. I would as soon confide in the cousin-german of a certain personage having two horns and a hoof. At that last battle the Irish soldiers, after three days fighting, being attacked by fresh troops, faltered and gave way, and fifteen hundred of the British army entered the breach. The Irish soldiers were fainting and retiring, when the women of Limerick threw themselves between the contending forces, and actually stayed the progress of the advancing army. See how we have accumulated the people of Ireland for this repeal year. When on the 2nd of January, I ventured to call it the repeal year, every person laughed at me. Are they laughing now? It is our turn to laugh at present. Before twelve months more the parliament will be in College-green. I said the union did not take away from the people of Ireland their legal rights. I told you that the union did not deprive the poople of the right, or take away the authority to have self-legislation. It has not lessened the prerogatives of the crown, or taken away the rights of the sovereign; and amongst them is the right to call her parliament wherever the people are entitled to have it; and the people of Ireland are entitled to have it in Ireland, and the Queen has only to-morrow to issue her writs, and get the Chancellor to seal them, and if Sir Edward Sugden does not sign them, she will soon get an Irishman who will, to revive the Irish parliament.

The towns which sold their birthright have no right to be reckoned among the towns sending members to parliament. King James the First in one day created forty boroughs in Ireland, and the Queen has the same right as her predecessor to do so. We have a list of the towns to return members (the counties as a matter of course, will return them,) according to their population; and the Queen has only to order writs to issue, and to have honest ministers to advise her to issue those writs, and the Irish parliament is revived by its own energy and the force of the sovereign's prerogative, and the Irish people will obtain their nationality again. If at the present moment the Irish parliament was in existence even as it were in 1800, is there a coward amongst you---is there a wretch amongst

you so despicable, that would not die rather than allow the union to pass? Let every man who, if we had an Irish parliament would rather die than allow the union to pass, lift up his hand. Yes, the Queen will call that parliament. You may say it is the act of the ministry if you please. To be sure it would be the act of her ministry, and the people of Ireland are entitled to have their friends appointed to the ministry.

The Irish parliament will then assemble, and I defy all the generals, old and young, and all the old women in pantaloons—nay, I defy all the chivalry of the earth to take away that parliament from us again. Give me three million of repealers, and I will soon have it. The next step is being taken, and I announce to you from this spot that all the magistrates that have been deprived of the commission of the peace shall be appointed by the association to settle all the disputes and differences in their neighbourhood. Keep out of the petty sessions courts and go not to them. On next Monday we will submit a plan to choose persons to be arbitrators, to settle the differences of the people without expense, and I call on every man who wishes to be thought the friend of Ireland, to have his disputes settled by the arbitrators, and not again to go to the petty sessions. We shall shortly have the Preservative Society to arrange the means of procuring from her Majesty the exercise of her prerogative; and I believe I am able to announce to you that twelve months cannot possibly elapse without having an hurragh for our Parliament in College-green. Remember, I pronounce the union to be null; to be obeyed as an injustice must be obeyed where it is supported by law, until we have the royal authority to set the matter right, and substitute our own parliament." The court and jury would now observe the statement made by Mr. O'Connell, the magistrates deprived of the commission of the peace, by the exercise of the authority of the crown, were to be appointed by the Repeal Association to be judges of all the arbitration courts, to which the people were to be directed to go; and he would with confidence further say, for he had already the benefit of hearing one of the judges on the bench state it as the law, when charging the grand jury, that no matter with what view those arbitration courts were formed they were illegal, and the attempts of the association to exercise the prerogative of the crown by appointing those arbitration courts was in the highest degree illegal. The judges of those courts were in the habit of issuing summonses calling upon the people against whom the proceedings were taken, or those who were themselves instituting proceedings, to appear before them at a certain time and place, and enter into a submission to leave the matter to their adjudication, which was plainly an attempt to exercise the prerogative of the crown, which prerogative the crown alone had a right to establish and use; and perhaps this attempt might be considered more formidable when it was remembered that it was made by those engaged in the conspiracy, and adopted in consequence of the exercise of the right of the crown in dismissing magistrates who thought fit to attend those meetings, the character of which was pointed out in the language of one of the traversers, "as most formidable."

At Tara there was a dinner in the evening of the day of the meeting, and at dinner Dr. Gray, one of the traversers, spoke as follows:—"In

one thing only am I compelled to differ from the observation that has fallen from our respected chairman. In giving the toast he stated that the press was of no politics; and I wish to correct the error by declaring on behalf of the national press of Ireland, that the members of it were politicians in the strongest sense of the word. I had myself the honor of being among them that evening as a guest, but I feel that wherever I am I am an Irishman, and as an Irishman I am ready to strike out boldly for the political liberty of my country. The repeal press was a political press, but its politics were the politics of Ireland; and steadily adhering to the course it had adopted, it would never deviate to the right hand or to the left, till the people of that country were relieved from Saxon tyranny and oligarch dominion. I believe I would best evince the high sense I entertain of the compliment paid the "press-gang," by being brief, and allowing them to gang home, that they might send their broad sheets through the length and breadth of the land, and not of that land only but to the clear isle hard by, that so jealously watched the proceedings of that day. Every eye was fixed upon the council of that day at Tara, and eagerly looked to its resolves. Was it not a national council in the most extended meaning of the phrase? Had they not at their head the monarch of the Irish heart? Had they not the spiritual peers of the realm? Did not the lay peers aid by their counsel? They had there, too the clergy of the land, and the constitutional representatives of the people. Ay, and the people themselves, in their multitudinous thousands, had that day assembled, and within the precincts of the ancient Council Hall of Tara, taken council together, and issued their proclamation, and that proclamation was---No compromise.

As I this day strayed over the ruins of our past glory, I chanced to walk over the graves of the patriots of what I might call their own day. I could not find words to give expression to the emotions I felt, as I contemplated their sad fate. A sorrowful chill came upon me when I looked upon their resting place, and saw in their end the dark history of the past. But that chill passed away, and hope revived, when I saw that upon their graves the stone of destiny stood erect. For centuries had that mysterious relic been prostrate, as the land whose destiny its fall symbolised; but now that I see it erect again, and on Tara's hill, and over the patriot's grave, I feel that the blood of the last martyr had been shed, and that Ireland herself would soon assume the upright position, and exhibit the dignity of a nation." Mr. O'Connell also addressed the people who attended at that dinner, and said—"But he is no statesman who does not recollect the that might slumbers in a peasant's arm; and when you multiply that might by vulgar arithmetic to the extent of 600,000 or 700,000, is the man a statesman or driveller who expects that might will always slumber amidst grievances continued and oppression endured too long, and the determination to allow them to cure themselves, and not take active measures to prevent the outbreak which sooner or latter will be the consequence of the present afflicted state of Ireland? I say sooner or latter, because I venture to assert while I live myself that outbreak will not take place. But sooner or latter, if they do not correct the evil, and restore to Ireland her power of self-government, the day will come when they will rue their present want of policy, and will weep perhaps in

tears of blood, for their want of consideration and kindness to a country, whose people could reward them amply, by the devotion of their hearts and the vigour of their arms.

I now turn to the gentry of Ireland. Let them first answer the question I had already put to them—is it possible things can remain as they are? And I defy them to produce from the congregated millions of Irishmen a single man who will answer that question in the affirmative. It is impossible they should remain as they are. Why then do they not join us? Is it not their interest to join us? What are they afraid of? It cannot be of the people, for they are under the strictest discipline. I am even one of them myself, and no general ever had an army more submissive to his commands, than the people of Ireland are to the wishes of a single individual." The submission to a single individual was a very formidable circumstance, because if that submission would enable that individual to direct tens of thousands even in a way not contrary to law, he would of course also have the power, when the time arrived, to give directions of a different nature, which they would equally well obey—"When I want you again will you come?" The answer was, "The sooner the better." They all knew the meaning of that question and reply; and however it might be the anxiety of Mr O'Connell that there should be no disturbance at that or other meetings, he (the Attorney-General) would say, in the language of Mr. Duffy, "that those meetings were still formidable multitudes."

On the 20th of August a monster meeting took place at Roscommon, at which Mr. O'Connell, Mr. Steele, and Mr. Barrett attended and met together. Upon that occasion Mr. O'Connell addressed the meeting, and said amongst other matters—"But I tell you the Irish people are too great to be slaves any longer. The man who drinks may elevate his courage for a time, and go to the battle with a high heart, but little time dejects him, and when an effort is to be made his courage retires. But if I had to go to the battle with the steady teetotallers—the men who would not spend the fire of their strength, or any other fire, in the flash of momentary violence; the steady slow step, and the regular march of the teetotallers with the teetotal bands playing before them for me, and the wives and daughters of the teetotallers thanking God for their husband's sobriety, would be praying for us, Oh! I tell you what, there is not an army the world that could fight with my Irish teetotallers. Teetotalism, therefore, is the foundation-stone of the edifice of Irish liberty; and I call on you all to think on that as you go home." They would recollect the statement at Baltinglass, "that they were sober men then, and not as in '98," in consequence of which "he looked forward to success." At dinner Mr. O'Connell also said—"I really feel inclined to think that of all the demonstrations that have taken place in Ireland, the scene of to-day is that which ought to strike our enemies with most terror, and give our friends the greatest source of consolation." That was the opinion of Mr. O'Connell as to the effect of those meetings; he considered that they were calculated to strike terror into the minds of those residing in the sister country, and those under British connexion, perhaps from the apprehension that there would be an outbreak by those demonstrations of physical force. There was a meeting of the Repeal Association on the

22d of August, at which Mr. O'Connell, Mr. John O'Connell, Mr. Ray, Dr. Gray, and Mr. Steele were present. He (Mr. O'Connell) submitted a plan recommended by a Committee of the Association, signed by him, as chairman, for the renewed action of the Irish parliament, which he (the Attorney-General would not trouble the court or jury by reading in full, but "thirdly," it went on to say—"The people of Ireland do finally insist upon the restoration of the Irish House of Commons, consisting of three hundred representatives of the Irish people; and claim, in the presence of the Creator, the right of the people of Ireland to such restoration. They have submitted to the union as being binding as a law, but they declare solemnly that it is not founded on right or on constitutional principle, and that it is not obligatory upon conscience." Now if the union was binding as a law, he (the Attorney-General) did not understand Mr. O'Connell's declaration, "that the crown possessed the prerogative and power to issue summonses for the Irish parliament at any moment. Upon that occasion Mr. O'Connell said, "he agreed with the Tory Attorney-General, Saunderson, that the only binding power of the union is the strength of the English domination. They also agree with him that resistance to the union is, in the abstract, a duty; and the exhibition of that resistance a mere question of prudence. They will, therefore, resist the union by all legal, peaceable and constitutional means."

The jury understood by this time the legal peaceful, and constitutional means by which the law was to be resisted. The plan then proceeded to detail the number of representatives which each county and town were to return, and a schedule is annexed stating the number of representatives, which each county and town were to return. The plan, after providing that the right of voting should be what is called household suffrage, and vote by ballot, and that the monarch or regent *de facto* or *de jure* in England should be the monarch or regent in Ireland; and after providing that the connexion between Great Britain and Ireland, by means of the power and authority of the crown, should be perpetual—it concluded by saying, "that the foregoing plan be carried into effect, according to recognised law and strict constitutional principle." This plan directly interfered with the strict prerogative of the crown in the administration of justice; and again he told the jury, under, the direction of their lordships, that not only was it perfectly illegal to interfere with that prerogative, and dispense with the provisions of the act of union, but that even the crown itself did not possess the power, since the act of union, to issue writs for summoning an Irish parliament.

On the 23d of August another meeting took place of the association, at which Mr. O'Connell, Mr. Barrett, Mr. Ray, Mr. John O'Connell, Mr. Steele, and Dr. Gray attended. The next thing he (the Attorney General) would call their attention to was the speech of Dr. Gray, one of the traversers, made upon the same day relative to the appointment of arbitration courts. He said—"I do not intend to trespass on the time of the association by making any comments on the report I am about to present. I cannot, however, omit remarking, that the circumstance the Liberator has just referred to must convince every man who heard it that the time was come when the appointment by the people of judges for the adjustment of their disputes was not premature. Their conduct in the transac-

tion he alluded to proved that they were fully ripe for the adoption of such a measure as that he was about to submit; for the man who would voluntarily come forward in support of laws that were supposed to be hostile to their interests, and the local authorities, whose hostility was not matter of conjecture, in the suppression of outrage, merely because that outrage was a violation of the law, were just the people whose moral condition rendered them fit for the application of a system of popular adjudication. Men who on principle yielded obedience to those in authority in whom they could not confide, would never refuse to comply with the fair and impartial decision of judges in whom they fully trusted, whom they themselves had elected, and whose appointment had received the sanction of this association.

"The only other observation with which I will preface the reading of the report has reference to the labours of the committee. Now, from the day on which the committee was appointed to the present, they had met every day, and on an average devoted from three to five hours per day to the consideration of the plan now about to be submitted. The committee felt that as the government was actively engaged in removing from the justice seat every magistrate in whom the people reposed confidence—every man who dared to declare himself the friend of national liberty, it was the duty of the association to be equally active, and show the people of Ireland, who looked to it for guidance, that if the executive deprived them of judges in whom they had confidence, it would lose no time in providing them with a system of adjudication on which they might place the most entire confidence. The committee, therefore, lost no time in preparing the report he was about to read for them. In its preparation every care was taken to remove all ambiguity, and to divest it of such technicalities as might otherwise render it difficult of comprehension. It was intended for the mass of the people, and they would find that the most ordinary capacity could comprehend its meaning." He would not at that stage of the proceedings read the report of the select committee of the association made upon that occasion—it would be read and proved regularly in the course of the evidence.

It was quite plain, from what Dr. Gray stated in his address, that the arbitration courts were to be constructed and sanctioned by the people, thereby directly assuming one of the principal prerogatives of the crown which alone had the right of appointing judges in courts of justices, and of regulating and controlling the administration of justice throughout the entire of this country. He would next call the attention of the jury to a publication in the *Nation* of the 26th August, a newspaper which formed a portion of that repeal press to which he found it necessary more than once to refer during the course of his observations—that repeal press which Mr. O'Connell has so often described as one of the most "powerful engines" in the world. This article in the *Nation* was headed—"The Crisis is upon us.—Our union with England was not merely an unjust and iniquitous, but an illegal and invalid act. The natural rights of the people were trampled down, in utter disregard of the forms and spirit of the constitution. The statesman's wisdom and the lawyer's learning lent authority to the instinctive repudiation of the patriot. Saurin, amongst others, declared that resistance was a question of time and prudence, and



would become a duty whenever strength and opportunity might concur in justifying the effort for its abrogation. A greater than Saurin has at length given forth the irrevocable voice---resistance to the union has become a duty."

He (the Attorney-General) adverted yesterday to the use made by the traversers of the expressions of Bushe, Plunket, Saurin, and others, and he wished to do so again now, in order that the jury might understand the circumstances under which those expressions were used. Any observations made by Mr. Saurin, were made by him in his place in the Irish House of Commons before the act of union had passed. There was no parallel whatever between statements made with the view of opposing an act in its progress through parliament, and observations made when that law had become the law of the land. If it was supposed by member of the legislature that the measure which government might have in contemplation would not be attended with public advantages they anticipated, it was the undoubted right of such a member to state, in his place in parliament, that he conceived it would be inconsistent with the interests of the country that the measure should become the law of the land. There was scarcely an act passed the legislature in which those who are in opposition did not use language in debate much stronger than that which they would have used upon cool deliberation; but although persons were justified in using strong language in parliament, he should wish to know how far the adoption of the same language was justifiable after the law had passed; and he was convinced Mr. Saurin himself was the last man that would have used such language when the measure had become the law of the land, and he never did so; yet the traversers use the high authority of that eminent man, by telling the people, over and over again, he entertained the opinion, "that resistance to the union was a duty."

The article in Mr. Duffy's paper then proceeded. "This, the forty-third year of provincial degradation, may, if the people have worth and energy, become the first of restored independence. The knot which had baffled every attempt to unravel its complication, has been severed with one final decisive blow, struck with the sword of peace and consecrated on the height of Tara. There is a way if there exists a will for the liberation of Ireland; for the re-construction of her legislature. The case between the people and their leaders stands thus: in a season of apparent apathy to the high and holy impulses of nationality; when cicatrization seemed superinduced by whip palliative and they wound inflicted on our Irish pride and honor no longer gaped and bled; O'Connell tore asunder the bandages and revealed to Ireland the exact seat and true character of her social and political disease. He cast to the winds the soothing system and aroused his countrymen from the delirious repose produced by dependence on the sympathies of foreign faction. The memories of the past, blending glorious traditions of remote days with the recollections of modern '82 were appealed to; the necessities of the present time were bared to view in their appalling reality; the hopes of the future were invoked, until by every varied argument addressed to their judgment and to their feelings; their own firesides; the tombs of their fathers; the cradles of their children—he so wrought upon the millions that they answered his invitation to come forth from bondage with the unanimity of

one man. It seemed as if the time had come to evoke the slumbering might of that Irish army which the legend tells us was doomed to sleep entranced in panoplied array, until aroused by some potent spell for the expulsion of foreign tyrants. So sudden, so enthusiastic, so resistless was the response of the Irish mind to the call of the Irish leader! Meeting was held after meeting, each exceeding its predecessor in numbers, and all, without exception, challenging respect for the demeanour of the masses who attended. Evidence was piled on evidence of a national will, combined with a national morality and intelligence, universal throughout every county of Ireland. The million shout of Tara completed the proof, and flung back the responsibility again upon the leaders. Yes, the people had sufficiently shown their willingness and worthiness to be led, by a thousand proofs of devotion to the cause and fidelity to their leaders. Whither and when? began to be asked, ere the echoes of Tara had died upon the public ear. The leaders have answered, and the responsibility is again upon the people. The Rubicon has been crossed by the promulgation of a plan for the reconstruction of an Irish legislature. For weal or for woe—for ages of bondage or centuries of independence—we stand committed. Forward and prompt action is sure of its reward in speedy and glorious triumph—the criminal abandonment of opportunity is equally certain to be avenged in the perpetuation of misrule. In the making or marring of our own fortunes, we involve to an incalculable extent the hopes of the whole human family. We have gloried in the irresistible efficacy of a new element in political warfare which we boast to have invented, and by whose employment we have already won many outposts. Will the principle or the men fail now in this last decisive struggle? Shall the nations who have given us their admiration, and sympathy, and trust, mock at us for braggarts?—our children's children curse our memories as they spit on our dishonoured clay? The world looks to our country for an example. Ireland must become a nation now, or continue a province for ever!

"We purposely postpone critical details of the plan submitted under the sanction of O'Connell's name and with the authority of the Association—contenting ourselves to admire, and inviting our countrymen to admire with us the symmetry of the temple of freedom raised for their reception. The portals stand open, the genius of '82 has consecrated the edifice, there may be a bench removed with advantage, or an alteration of internal arrangement with convenience; but the exigency of the hour is to secure the possession, and appropriate the structure to the sacred use, of self-legislation. the number of representatives who will occupy seats in the future Irish House of Commons happens to coincide with that determined upon as the most eligible limit for the intended Preservative Society. It is desirable for many reasons that the distribution of representation should be the same, so that the transition may be easy and natural to the recognized and technically legal condition of a parliament. The chosen trustees of the people's money now, will have the first claim upon their votes hereafter. Much inconvenience will be prevented by limiting the number strictly according to the schedule submitted to the nation in the plan of the Association. Constituencies, as they will be, districts as they are, having greater enthusiasm in the cause, or enabled to contribute more liberally to the qualifying fund than others, can transfer to less fortunate

localities their surplus of ability and pecuniary weight with advantage and honor to both parties.

On the character of the gentlemen who will be invested with the confidence of the people as members of the Preservative Society will depend, in a great measure, the destinies of Ireland. They must be men---not mere talking or voting machines---earnest men with hearts, and rational men with heads, having brains in them as well as tongues---self-reliant men, that each may regulate his conduct as if the fate of the national cause rested on his individual exertions---not vainly confident, that, from the highest downward, they may one and all determinate and act with the concentrated authority of a body. Men, in fine, whose personal character will secure respect. Caution in such a choice is indispensable for the credit of the people, lest they be shamed or betrayed. We urge these considerations at once, because we know that another step in advance has been resolved on, and will probably be announced at the next meeting of the association. The article in question thus concluded---“The hour is approaching which will test us. The curtain has risen on the fifth act of the drama---shall it fall to hide from the world's scornful gaze---the disgraceful sight of our efforts baffled through our own weakness and criminal folly; or descend amidst the applause of admiring nations upon the sublime spectacle of a happy and emancipated people---chanting in harmony their song of peace and bloodless triumph? Men of Ireland, in your own hands is the issue.”

On the 4th of September a meeting of the association was held, at which Mr. O'Connell, Mr. Ray, Mr. Steele, and Dr. Gray were present. Letters enclosing subscriptions were read from Judge Doran, of Philadelphia, enclosing 50*l.*; from Boston, enclosing 50*l.*; also letters from Albany and Bangor, United States. Mr. O'Connell having read the letter from Bangor, containing one hundred dollars, said---“The meeting at Clontarf will take place on the 8th of October. The chair will be taken on the mound raised to cover the bodies of the danes who fell in battle there. I think it right that the attention of the association should be drawn to the present state of the repeal question---to the prospect of success, and the means of achieving it, in the most expeditious manner. The miserable and ludicrous manner in which the session closed---the paltry trick of putting a speech into the mouth of the Queen, containing indistinct and unfounded charges, has had its natural effect on the sensitive Irish mind. I have received more letters from persons desirous of joining and taking an active part in the repeal cause within the last week than for a considerable period before.”

Before proceeding to refer more particularly to that speech, he should return to some proceedings that took place before the meeting to which he had just called their attention, and which he had inadvertently passed over. He wished first to call the attention of the jury to the circumstance that, on the prorogation of parliament, her Majesty delivered a speech from the throne, which had reference, amongst other matters, to the existence of agitation in Ireland, and it was in allusion to that speech that Mr. O'Connell used the observations which he had just read. Her Majesty among other matters in the speech from the throne, expressed her deep concern at the attempts that were made to stir up disaffection

among her Irish subjects. Having read an extract from the speech from the throne, the learned Attorney General proceeded to say that it was delivered on the 26th of August, and on the 28th of that month, her Majesty's speech having, in the meantime, arrived in Dublin, a meeting of the association was held, at which it was stated that the forms for the establishment of the arbitration courts would be ready to lay before the association on the next day, the 29th of August, to which the meeting was adjourned. On that day Mr. O'Connell gave notice of a motion to which he had to call their particular attention—it related to what he would call a counter manifesto to the Queen's speech which had just arrived in Dublin. Mr. O'Connell, on that occasion, used these words—"It is now my duty to bring the objects of this day's meeting under the attention of the association here present. I mean to move that it be referred to the committee to prepare the draft of an address to be laid before the association, directed to our fellow-subjects in every part of the universe; those who are obedient to the British throne—stating the grievances under which the people of Ireland suffer, and the course which they deem it prudent to adopt. The committee will enter into the details of all those matters, which, in my judgment justify, and not only justify, but demand the continuance of the present agitation.

We have been accused of being discontented, and we plead guilty to the charge, if guilt it can be called. Yes, Ireland is deeply discontented, and it would be an accusation of great weight, and a crime of considerable turpitude, if Ireland was discontented without an adequate reason. It is my business to show it to the public and to the universe, for foreign nations have their eyes upon us, as well as the inhabitants of these realms. It is my business to vindicate the faithful people of Ireland from any guilt in the discontent that universally prevails, but which manifests itself in so peaceable and constitutional a manner. We are accused of being disaffected. I deny and spurn the accusation, and mark it with this epithet—it is as false as hell. We are not disaffected. We make the constitutional distinction between the sovereign on the throne and the minister whose act it is—the sovereign whose name is used, the minister whose responsibility is constitutionally offered, though hitherto practically very useless. But it has its merits. It separates from the throne any ebullition of that anger and just indignation which false charges always produce; and it has the effect of visiting that anger and indignation on the heads of the base ministers that would dare to traduce us. In order to vindicate the people of Ireland—in order to enable them to decide what course they shall hereafter take, I will bring before the association those matters of importance with which the present crisis is pregnant. I will endeavour to show them in detail, and with as much distinctness as I possibly can, the state of the Irish people at the commencement of the late session of parliament, and the acts of that session, and I will then direct your attention to our future prospects, and our future conduct."

The learned Attorney-General then read another extract from the speech of Mr. O'Connell on the occasion, which related to the plan of taking the census of the probable constituencies in each of the towns that, according to his plan, would have a right to return members to an Irish parliament. He had, in the next place, to call their attention to a publication in the *Pilot* newspaper of the 28th of August. The progress of the conspiracy having

been carried on to that extent, every means that could suggest themselves to the minds of those engaged in forwarding it were resorted to in order to create disaffection among the inhabitants of this country, which had been raised to feelings of anger against those who were called their Saxon oppressors. The people had been taught their own strength---they were brought together from great distances in thousands, and taught to know the reliance they might place on themselves. But still the great difficulty that yet remained in the way of the conspiracy was to gain over the army. He had already read extracts from speeches of Mr. O'Connell, tending to excite disaffection in the minds of the non-commissioned officers of her Majesty's army, by drawing distinctions between the treatment they received and that of the same class of officers in the armies of other powers. The Attorney-General then read an extract from the report of the Secret Committee of the House of Commons after the rebellion of 1798, showing the attempts that were made by the leaders of the United Irishmen, before the breaking out of the rebellion, to excite disaffection among the King's troops, by holding out tempting offers of promotion to the non-commissioned officers.

The learned gentleman said he would now call the attention of the jury to a publication in the *Pilot* newspaper of the 28th day of August. It was a letter addressed to the editor, and signed "Richard Power, P. P." It was headed, "The duty of a Soldier." The document was a long one, and, therefore, he would, at present, only read portions of it, although he intended to give the entire in evidence:---"There are at this instant more men in Ireland who understand their just rights, and who are conscious of their power of asserting them, than ever existed in any nation even of five times its population. There are three millions of as brave men as ever trod the grass, united as one, (a sufficient number to conquer Europe) ready at a signal, and determined to die, or have full and ample justice; and yet, I don't fear to assert it, there is not one man amongst them who hopes to obtain one shilling's worth of any man's property, or who intends to do the slightest personal injury to any human being by joining in the great national revolution, upon which they are now unalterably determined. This is the highest degree of political training to which a nation ever yet was brought. It is a condition of society which no man ever imagined until the great apostle of peaceful agitation has exhibited it to the astonishment of the world. This, after all, is not depriving the thief of his physical force, but creating an overwhelming force which he dare not encounter; constructed, however, upon such a principle, that no other thief can use it; its animating principle being justice---peace, if possible---but, peace or war, justice. There is one class of persons whom Mr. O'Connell has not taken into his school in his lectures upon political rights and duties, but who have, it seems, profitted, notwithstanding, to some extent, of his peaceful doctrines---I mean the military. Mr. O'Connell is the best abused man in the world, his motives are misconstrued, his objects misrepresented, his character maligned, his person insulted, and his conduct held up to scorn---his course must be cautious. If he touched upon this subject he would be cried up at once as open rebel. It would be said that he wanted to corrupt the soldiery, and withdraw them from their duty. It would be

put down as an act of high treason. It was, therefore, consummate wisdom on his part never to have alluded to it. His system cannot be perfect, however; it will not embrace every class through whose agency an oppressed and plundered people can create for themselves a wise, just, and impartial government without bloodshed, rapine, or any species of crime, unless the soldiery are instructed in their conscientious duties. The very life and soul of a soldier is to die for his duty—let the brave soldier, therefore, know his duty, and he will die to perform it; but, as he every day of his life dares death, he would die before he would exceed it.

My present purpose is to explain, as clearly as I can, what that duty is, I cannot be suspected of corrupting the soldiery, or bringing them over to second any views of my own; I can have no political object, no ambitious projects, I took the oath of allegiance, and I shall adhere to it to my death, and my position in society is immoveably fixed. I can, therefore, have no other object but to state the truth; and as truth and justice must ever go hand in hand, to make the statement of the true doctrine on this point subservient to universal justice as far as it may. I do not presume to be an authority on this most grave and important subject, but stating this publicly, what I conceive it to be the true doctrine regarding it, I am open to correction. I call upon my fellow clergymen, whose duty it is to be accurately informed on it, and to communicate that information to all whom it may concern, to set me and the public right when I may have erred. I am sure many of them will be found to do so if I go wrong. A soldier is a person who hires himself to a government for the purpose of slaying his fellow-men. He does not carry destructive weapons for hunting down wild beasts or butchering sheep or oxen. No; expressly and distinctly, it is to kill his own fellow-creatures. Viewed solely in this light, every feeling of our nature recoils with horror from the profession of a soldier, and yet the true soldier is a manly, generous, and noble fellow, but his duty and his object, it is true, is to slay his fellow man; but, then, he is no cut-throat or orangeman. He would sooner be the victim of either than stain his high character with the crime of the one or the infamy of the other. He is not the ready tool of a bloody-minded tyrant, who would employ him to cut down the unarmed and defenceless. He would sooner stand to be shot at than be converted into a murdering man-butcher by any such horrible miscreant.

“Having said thus much upon what is not, I now come to state what is the duty of a soldier. It is his duty to fight against the enemies of his country, armed for attack, or armed and forewarned for defence. This is the sum and substance of his duty; if he is ever employed for any other purpose, he is not bound to obey; but to this duty he is bound to devote every energy of his mind and body in life and death. In action the soldier is to have no will of his own. It is the right and duty of his commanding officer to point out what he is to do. It is his duty to do it or die—not only as a matter of personal bravery, but as a conscientious duty before God, he is bound to give up all thought of self-preservation—all feelings of humanity towards the enemy (not, however to the extent of unnecessary cruelty) to weaken and destroy the adversary in every way in his power, and even when he sees that his own death is inevitable, to sell

his life as dear as he can. War being once legitimately proclaimed, the soldier is a mere instrument in the hands of the government of his country, to be employed by the general placed over him for the destruction of the enemy, and, whatever intellect he possesses, he is only to use to carry into effect the commands of those in authority over him. It will be said that this is a degrading and debasing condition to place rational beings in, who are all accountable for their actions, and many of whom may be as intelligent and as enlightened as the very general whom they are thus blindly required to obey; but the strength and effectiveness of an army is ever in proportion to the extent to which this spirit pervades the whole mass---men and officers and men. Prompt, cheerful, and determined resolution to carry the commanding officer's orders into effect is the whole secret of military discipline---on it alone depends victory---it will tell almost against any odds, and it is, therefore, that it is a moral duty in a just cause."

"This is the full extent to which the unreflecting mechanical obedience required from the soldiery can be carried. It is absolutely impossible that any human authority could exist on earth which could absolve any man, in any condition or profession, from the moral responsibility which attaches to every rational being. The soldier, like every other man who hires himself for any particular business, if required to go beyond it, is not bound to obey; if it ceases to be legitimate, he is bound not to obey. The soldier is bound to fight against the enemies of his country in a just war; this is his sole duty, this is his only obligation; if commanded to do any thing else he is not bound to obey, and if he did obey with arms in his hands, when required to do anything unbecoming a soldier, I would call him not only a base slave but an arrant coward. If the government to which he has engaged his services as a soldier should be so iniquitous as to enter upon a war of plunder or unjust oppression against an unoffending people, he should die before he would participate in such a horrible crime. No supposed obligation, no imaginary duty would justify or excuse him; before God and the world he would be a robber and a murderer if he advanced one step in obedience to any human being for such a wicked purpose.

"But here arises the embarrassing difficulty to the brave and honest soldier. If, believing the government that would be so depraved as to engage in such a war would be sure to treat its own soldiery with as great barbarity as it would the offending people whom it would destroy, the service would be iniquitous; he disobeys, he is put down as a coward. If he fights he is a murderer, and this to be sure is a hard case; but why should a soldier talk of a hard case? If he be that sort of milk-and-water kind of thing that would sit down to bemoan his unhappy fate, what business had he with the profession of soldier. If he will not rob will not the brave and honest fellow who would disobey such pirates be tried by court-martial and shot at the drum head? Who will then dare to call him a coward? Why nothing but the fear of this would ever make him take chance of escaping amongst the gang of robbers who would obey; and then who is the real coward? Clearly, the man who would take chance to escape [as] the murdering thief, surely not he who would die sooner than be such a villain. The fate of such a fine fellow would, no doubt, be melancholy. There

is no brave or generous man living who would not shed the tear of warm sympathy over his honored grave. He himself would be the only man who would stand unmoved when the instruments of death would be pointed at him; his very murderers would shudder at their own crime, while the blessings of all that is good and virtuous on the earth would follow his brave and manly soul before the throne of that God whom alone he could be made to fear and obey, but whom, upon that occasion at least, he would have no cause to dread. I do not, of course, mean to make any practical application of this doctrine to the actual state of this or any other country at the present moment. I put it forward solely as an adjunct to Mr. O'Connell's general theory of peaceful agitation, which would bring about every amelioration in the condition of mankind, by instructing every class of the community in the moral duties they owe to each other. The military have been in all ages the most powerful class; when ignorant, depraved, and blood-thirsty, they have invariably been employed for the plunder and oppression of men; when intelligent, moral, and generous, they have ever been the protectors of the people; the defenders of their liberties; the scourges of their tyrants! It is, therefore, essential that they should be included in the grand scheme for the universal regeneration of mankind by intellectual instruction alone. If this short notice of this extremely important subject should contribute to bring under general discussion, it will be doing good service. If any one differ from my views regarding it, I shall be glad to have his reasons. I undertake to go fully with him into it, and to define and to demonstrate the moral duty of the soldier under all possible circumstances, in peace and war; at home and abroad. As a beginning, to mark out those two or three prominent points, about which there can be but little rational controversy, is, perhaps, quite enough, believe me, dear sir, very faithfully yours, RICHARD POWER, P.P., Kilrossenty, 18th August, 1843."

Now, he thought there was no misunderstanding that publication. In the early part it alluded to the effect created by the vast numbers of persons which the system had brought together, and then spoke of the overwhelming force, animated by the principle of justice, which was to be obtained by peace, if possible, but, peace or war, justice; and after thus unequivocally alluding to physical means, it spoke of those views of duty which should direct the soldiery. If the government were to act on the same principle of the late government, which had declared that civil war would be preferable to the concession of repeal, and in the event of an outbreak of the organized masses, if the government, for the protection of the loyal subjects of the crown, commanded the assistance of the military the soldiers were distinctly told they were not to obey. The principles of the military being thus tampered with, it was expected that under the direction of their serjeants, they would "pronounce," as it was called, just as the army had done in Spain. He had already called attention to the proceedings at a meeting of the association on the 4th of September. On that occasion Mr. O'Connell made a speech, in which he said—"I want no revolution, or if any, only a return to former times; such a revolution as 1782 or 1829—a bloodless, stainless revolution—a political change for the better. But who can tell me that we have not sufficient resources remaining, even if our present plans should be defeated? The people



of Ireland might increase the potato culture, and leave the entire harvest of Ireland uncut. What would be the remedy for that? Who will tell me that the repealers of every class might not totally give up the consumption of exciseable articles. I throw out these things merely to show that if the diabolical attempt to create bloodshed should succeed, still the people would not be deprived of their resources, and the means of vindicating their cause. But of course I do not suggest them. The harvest is now cut. I speak the day after the fair, and therefore with particular safety. The resolution for the non-consumption of exciseable and customary articles is not proposed at present; it is reserved for a grater emergency; but I am far from saying that it may not be proposed, and I will shrink from nothing." Such was the legal, the constitutional mode, by which Mr. O'Connell contemplated the accomplishment of the objects he had in view. The plan thus proposed was the precise plan which, in 1797, was projected for the embarrassment of the government. It appeared that the parties had studied the history of the Irish rebellion in 1798, and were acting on the very principles of the patriots of that day, as they were called. Mr. O'Connell proceeded to say---"We have at present in preparation two separate and distinct plans. The first is, to arrange the constituency in such a manner that if the Queen be pleased, in six weeks, to issue writs calling a new parliament in Ireland, she might be able at once to direct them to the proper constituencies. The scheme of the Irish parliament will very soon be circulated in print. I wish to work out this plan in all its details, before I form the council of 300. What I am now doing and the Preservative Society are totally separate, distinct and unconnected; and though one will follow the other, they are not cause and effect---they are separate and distinct parts of my plan." The Preservative Society here alluded to was the intended convention of three hundred persons from those several places which were to be represented in the Irish Parliament. To get rid of the character of delegates, and to escape the provisions of the convention act, the qualification for each member of the society was to be the payment of 100l. and Mr. O'Connell to ask the 300 persons to dine with him, as if it were possible, by any such contrivance, to deprive such an assemblage of its true character. Indeed it was impossible to say to what length these parties might have gone if they had not been checked.

He would now call attention to another publication in the *Pilot* of the 6th of September. It was a publication from Mr. Barrett himself on the subject of the army. It was headed "The Irish in the English army---Mr. O'Callaghan's letters." It said that if the press did not interfere there would be no bounds set to the persecutions of the private soldier, and after alluding to the "secret of the composition of the army," it embodied this extract from Mr. O'Callaghan's book:---"It is difficult to perceive, even independent of the circumstance of so many of the military being known repealers, how the great mass of our army can be reckoned on to uphold, at the expense of their own as well the people's cause, the supremacy of an oligarchy, whose generosity, gratitude and tenderness to the soldiery for so doing, consist of promotion to commissions only for the rich, the mangling lash to the bleeding back, and such merciless

drillings as have caused poor Private M'Manus to drop down dead, and Private George Jubce (a soldier of acknowledged good character), to send, in desperation, a bullet through Adjutant Robertson Mackay's body." Mr. Barret had, to the best of his ability, taken care that this penny publication should be brought under the notice of the army through the instrumentality of his paper, which he hoped would be found in every soldier's knapsack. The views taken by government with respect to the state of agitation upon the 26th of August appeared clearly in her Majesty's speech delivered in parliament that day. It had, however, no effect, as it might have been hoped amongst the members of the so-called "Loyal" National Repeal Association.

On the 10th of September, there was another multitudinous meeting. It took place at Loughrea. At that meeting Mr. O'Connell, Mr. Steele, Dr Gray, and Mr. Barrett were present. The rain, however, happened to set in in the morning, and Mr. Barrett, in his paper, states that it had the effect of shortening the proceedings of the assemblage, whose overwhelming numbers had been fully disclosed. At the meeting in the morning, Mr. O'Connell did address the multitude and said—"I regret that the state of the weather will compel me to narrow the expression of my gratitude in the smallest space. We know there is high authority for saying that it rains on the just, as well as the unjust. I would wish to lay before you the outpouring of my heart at the splendid spectacle of to-day; but I cannot dwell on that subject of congratulation. I cannot, however, avoid saying that Connaught is doing well, right well; Connaught is exhibiting a right noble spirit; it is showing a glorious, a right glorious determination. Connaught is determined that Ireland shall be free. Oh! what a majestic spectacle have I witnessed to-day, the peasantry of several counties coming together in merriment and heart-felt kindness, and conducting themselves towards each other with all that kindness and courtesy of what are called the higher orders; higher orders! Bah! they ought to imitate the conduct of their humbler and honest fellow-citizen. I have to day with me a bold peasantry, and physical power sufficient to achieve the greatest revolutions, if force were to be used; but yet, this great meeting is as submissive as gentle, and tranquil as if an assembly of the youngest persons met for merriment. A finer spectacle than I met to-day I never saw." Mr. O'Connell concluded by saying—"The Saxon stranger shall not rule over Ireland. If shall belong to the Irish, and the Irish shall have Ireland. I will not detain you longer; may every human prosperity attend you; aye, the blessing of God light on you: my temperate, generous, affectionate friends. You shall have liberty."

At the dinner, Mr. Barrett, in answer to a toast which was given, "The People," made, amongst others, the following observations---  
 "There is in the organisation, the numbers, the nature of the country, and the spirit of the people at this moment, in their sense of wrong and love of right, in their deep conviction of all that would be lost by defeat and won by victory, a mighty power which would defeat the calculations and manœuvring of military tactics; and that, great, admired, and prominent as we are now in the arts of peace, if driven to it this people would be found still more astonishing in military valour, and that prowess which would render their outbreak irresistible and their country." Mr.

O'Connell at the same dinner stated amongst other matters." "They had but one arrow in the quiver---but one stone unflung---but one trick untried, and out they brought the Queen. All Europe was to be astonished by the splendour of her speech against Ireland---Oh! what a trick it was. It was worse than a scolding match between two fisherwomen in Billingsgate. The fisherwomen gives her colleague the power of reply; and if she calls her by ugly names she is obliged to wait to hear them retorted; but the government had all the scolding on one side. It was an unfair advantage that Judy took of us." This was the manner in which the Queen's speech was spoken of by Mr. O'Connell, "When they talked of beating us we were ready with our shillelugs. If they will give us fair play here at scolding I am ready for them." Upon the 12th of September a meeting took place at the association, at which Dr. Gray said he had been commissioned by the committee of arbitration to state that circulars had been forwarded to the repeal wardens and clergy in various districts, and that deeds of submission, forms of award, &c., were ready to be sent down to the country as soon as the arbitrators were appointed."

At the same meeting Mr. O'Connell, in reference to these arbitration courts, said that the great object "was to supersede altogether the necessity of the people appealing to the magisterial authorities constituted by law." That was the declaration made by Mr. O'Connell---that his object, and the object of the association was to usurp the prerogative of the crown, by superseding those tribunals which, by the authority of the crown, and the law of the land, had been established for the administration of justice. He had already stated, in a former part of his address, that it was on the 29th or 30th of August (the Queen's speech having arrived in Dublin), that Mr. O'Connell gave notice of a counter manifesto, in the shape of an address to the subjects of the British crown in every part of the world, stating the grievances, or the alleged grievances under which Ireland laboured, and also stating the means by which those grievances were to be remedied. Now, this was not the place or the occasion for entering into a discussion as to what are called the grievances of the country. It was not for the court or the jury to decide or to consider whether such things did exist; their duty was to consider whether the course taken by those parties, charged with conspiracy was a legal course for the purpose of carrying out their object; and the counter manifesto, which was brought forward at the association on the 13th of September, contained on the face of it, that there was no hope of obtaining redress of those grievances from the British parliament by any legal or constitutional means; and the mode in which they were to be remedied was pointed out in language not to be misunderstood.

He would read the concluding passage of this address: 'Lastly, to crown all, they conclude the session with a speech, which they cause the Queen to pronounce---of course the ministers' speech, full of sound and fury, giving us for all relief and redress, for all conciliation and kindness, the absurdity of ministerial assertion, and the insolence of half whipt ministerial anger. Fellow subjects! our case is before you and before the world. Grievances, such as the Irish people endure, no other country has ever suffered. Insults such as are offered to us were never afflicted on any other. There is one consolation: it is admitted by all, and is as

clear as the noon-day sun, that unless we redress ourselves we can have no succour from any other quarter; but we suffice for ourselves and our country, we suffice for the repeal. We expect nothing from England or Englishmen, from Scotland or Scotchmen. In each of those countries the benevolent few are overpowered by the anti-national antipathy to Ireland, and the virulent bigotry against the Catholic religion of the overwhelming majority of both England and Scotland. The present parliament has been packed with the aid of the most flagitious bribery to oppress and crush the Irish nation. From them there is neither redress nor even hope. But, Irishmen, we suffice for ourselves. Stand together---continue together---in peaceful conduct---in loyal attachment to the throne---in constitutional exertion, and in none other. Stand together and persevere, and Ireland shall have her parliament again. Such are the words we address to our fellow-subjects all over the globe."

That address met with the unanimous approbation of the association, so that it would be seen he distinctly stated, and the association who adopted the report pronounced, that they had no hope of redress from parliament; that they had sufficed for themselves, to whom only they should look for redress. It was true he omitted to state what the constitutional mode was by which he proposed to remedy those grievances; but who could doubt, when he threw over board parliament, and told the people to look to themselves, that his suggestion had amounted to physical force? The mode in which the Irish were to redress themselves was he thought pointed out a little more unequivocally at the next monster meeting that took place; for day by day, as they proceeded in the history of this conspiracy, the pretexts on which those meetings were held, and the objects of them ceased to be concealed. The next meeting was held in the county of Galway, at Clifden, on the 17th day of September, four days after the meeting of the association to which he had referred. Dr. Gray, who was present on the occasion, described the horsemen who attended as "troops of peasant cavalry," who were commanded by farmers with repeal cards in their hats, on which were recorded the victories of the Irish people at several battles. At that meeting Mr. O'Connell said, "I had no doubt at all that the women of Connemara were as handsome and modest looking as any in the world; that opinion has been abundantly confirmed by the beautiful scene I have beheld to-day. But I came here to make an experiment on the men. I want to know whether you are not as brave and as Irish as the rest of the nation? I want to know whether you are as honest, as true, as faithful as the rest of your countrymen? I want to know whether you don't hate Saxon tyranny as much as the natives of other parts of Ireland? I want to know whether you do not feel the evils of misgovernment as much as the people of any other part of Ireland? In another part of the same speech, he said, "You have no commerce, and where are your manufactures? Oh! you have no manufactures. Why? Because Ireland is governed by Saxons and not by Irishmen. Will you join me in giving Ireland to the Irish?" This was addressed to the assembled thousands by the chairman of the committee who framed the report to which he already alluded, and who said that the people had no hope from parliament; that they were to redress themselves. He did not tell

the misguided people that if commerce and manufactures did not flourish in this country, as they did in England, it was caused by the pernicious system of agitation which disturbed Ireland. He did not tell them that the reason of English capital not being employed in Ireland was the insecurity of life and property in that country. He did not tell them that if Ireland had not as much commerce and manufactures as the sister country, there was no person to whom they owed that circumstance more than to himself. Further on, in the same speech, Mr. O'Connell, said: "Will you join me? My experiment is satisfied, and I can now tell the rest of the three provinces that Connemara is as determined as they are; you cannot be more so, my friends. If the battle were to be fought, I know you would be in the front rank, but there would be as brave hearts and as ready hands by you. But the battle of Ireland is a peaceable battle, and there is no occasion for warfare. There is no occasion for hostility. I will keep you out of danger, and conduct you in the constitutional way of the law and national exertion. Yes, if it were necessary for me to call out your force in battle, I am sure there is not a man of you who would not come again on the day I asked him. I know it, and I will tell you why it is unnecessary, because your enemies know it as well as I do. Force and violence are not to be used. If the time for using force should come, there is one here will tell you that the time has come. Yes, because you know I never will tell you, until your enemies attack you; and if they do, I will tell you, and woe to those who dare attack you." At the dinner which took place upon the same day, Mr. O'Connell's observations were not of a very equivocal kind. He said—"I have demonstrated that I have more men, more men of a fighting age (why should I not use that word) ready to stand by their country than ever evinced that determination before. I say to England we will use no violence---we will make no attack---we will reserve our force for defence; but attack us if you dare. What is the answer? We do not intend to attack you, and you need not set us at defiance. My reply is the school-boy's---thank you for nothing says the gallipot. But then they say how can you carry repeal? If you take a single additional step we will go to law with you. My answer is that I am an old lawyer, and the proverb says you can't catch old birds with chaff; and they are not able to beat an old lawyer with chaff; at all events I set your chaff a defiance, and will take the next step in spite of you. We are appointing men to act as arbitrators in the room of the magistrates who were struck off, and those who are left in the commission, who are infinitely worse. Last year Goulburn took off the duty on arbitration as if he actually had seen what was coming." Mr. O'Connell further said---"Do they think they will catch an old bird with chaff? You will see in the newspapers a report of the first court of arbitration which will sit on Friday next, Dr. Gray in the chair. It will sit every Friday afterwards. They will spread through the country. We have had a number of applications for the establishment of courts in various parts of Ireland, and I am convinced that it will work well. Disputes which now fester and rankle in a village will be settled amicably. It will spread further. I will apply the principle to a higher class of cases. We will appoint arbitrators for every thing the people may choose, and I trust before I am twelve

months older to take half the business out of the superior courts. This is laying the basis of a judicial system, and above all it is safe; I defy all the crown lawyers to find a flaw in the plan."

Mr. O'Connell further said—"We are to have an association which is to meet by chance in Dublin, I hope before the year closes, but at all events I am sure early in the next. Three hundred gentlemen will find themselves together in Dublin by one accident or another. The newspapers have described how this is to be done. I never take advice from newspapers in matters of law. I am glad to take facts from newspapers, and I am happy to say that no country in Europe has a more honest and powerful press than we have in Ireland. One thing that shows we are in the right road is the amount of talent possessed by the liberal press, but I will not take my law from them. Without going into the Convention Act, or any other act, I say at the time I have stated, we shall have three hundred gentlemen assembled, ready to enter into immediate negotiation with the British minister, to show him the state of Ireland—to show him our further resources—to show him that we could paralyze the entire state, and that it would be done by nothing but sowing more potatoes, and leaving the harvest to rot on the field [except the poor man's part, the potatoes.] To show him that we have physical power, and that if assailed, we will use it. I have more projects in my mind, but I will not speak of them now, by which I can checkmate the government tranquilly and quietly. It is avowed that proud England dare not assume an attitude of menace towards any state in the world, however insignificant. The English government can no longer threaten, alas! it cannot exert itself in necessary defence. It is weak, because it has withered the strong arm of Irish affection." He further said—"For the present year my monster meetings are nearly over, there will not be above seven or eight more of them. But before I have done with them, the demonstration of moral combination, and of the mighty giant power of the people of Ireland, will be complete—their subordination will be complete—their discipline will be complete. Why you saw how the cavalry fell in and took their station, five by five, at the word of command of Tom Steele. No aid-de-camp of the lord lieutenant was ever obeyed so cheerfully as he was.

The court was here adjourned for twenty minutes. When their lordships resumed their seats,

The Attorney-General said that he omitted to mention, that at the dinner there was a passage, in which he said, "I have more cavalry than at any former meeting." In the course of about a week afterwards, a meeting was held at Lismore. At that meeting Mr. O'Connell, Mr. Steele, and Mr. Barrett were present. Banners and flags were conspicuous there. Eleven temperance bands were present, and the men of Waterford, Dungannon, and Lismore, were headed by the Rev. J. Sheehan, and other clergymen. At Lismore Mr. O'Connell addressed the assembled thousands, and amongst other observations he said: "If you were wanted by me to-morrow would you not come (tremendous cheering, which lasted several minutes)? Let as many as would come at my call hold up their hands. (Here, it is stated in the newspapers of the defendants, a dense forest of uplifted hands waved to and fro amid the most tremen-

dous cheering we ever witnessed ; the scene was actually indisable), But though their hands numbered thousands, they had but one heart, and that was full of life, and strength, and hope for Ireland." Mr. O'Connell further said, that some of his friends spoke of the impression that they had made on France, on America, and on Europe. Doubtless they had made such impression on those places, and he could tell them that they had made a deep impression on the English, and they were beginning to see and understand the Irish, and by and by they might attempt to bribe them. They might talk of compromise. Compromise to the winds ! He would have no compromise. He had floated his standard, and he would stand by it through weal and woe, and on that standard was engraven repeal. He had enjoyed much of the confidence of the people. Perhaps no man undignified by the title of King or Monarch ever enjoyed so much popularity ; and he should say that it happened once or twice that he had been abused by some kings, but he never returned the compliment. He believed that it never happened that a man like him possessed so much power. Why his wishes were obeyed as law, He was persuaded he had no other way of working out his salvation than by working out good for his fellow-man. It was his vocation under heaven."

When such observations as these were made to the peasantry, it was not very wonderful that at Baltinglass the people should have said " the time is higher than you think." The learned gentleman then quoted another speech of Mr. Connell at the dinner given at Lismore, at which he used these expressions : Mr. O'Connell said, " look at the state of Ireland. The entire nation has pronounced that they have ceased to be slaves, because the light of freedom has beamed upon them. They have pronounced their determination not to remain longer the victims of an alien Parliament, and let them wait for a while. I am one of the wait-a-whiles. Allow the progress to be kept a secret ; not from ourselves, for we have nothing to fear. Aye, in Mallow things looked more threatening ; they were ready to bring their horse, foot, and artillery on us, but in that very Mallow I hurled at them my high and haughty defiance. I told them they could not conquer the Irish people. They admitted the truth of the assertion, and they neither attempted to conquer or delude us. No ; they left us to work out the national question of Ireland's hope and redemption. All that is required of us is to work it in such a way as that there will be no destruction of its parts, but that all may arrive securely at the point we wish." He further said, " My first anxiety is to wrest from the judicial administration its unholy authority ; to do away with the wrangling of the petty sessions courts, where the magistrates preside. I want to have tribunals of reconciliation in every parish in Ireland, existing not by patent from the crown, or imbued with Saxon notions of justice, but fair, equitable and impartial tribunals, where the people may fairly settle their difference by impartial arbitration."

At the conclusion of his speech he said, " I implore you to continue your confidence in me. Let it not be in the shout that you will support me. Abide your time. Wait for a moment, and allow me to tell you when the time comes to exert yourselves." The learned gentleman then quoted an article which appeared in the *Pilot* of the 25th of September, headed " The Army, the People, and the Government"---a subject which

was very important for the consideration of those who had determined to redress themselves without the aid or the concurrence of the parliament. "The army, the people, and the government.—No subject can be at present more vitally interesting to the friends of constitutional eloquence freedom, and Ireland than the state of the people's army. Aye, the people's army, for we would be glad to know who pay the taxes which support the army but the people, the poor, oppressed people? Who supply the fine young recruits but the people, and for what pretext was the army ever raised if not for the defence of the people or their property, though now, alas, but too many of them have little or no property. Then again the army, by this we mean that respectable body of men the serjeants and privates, are all from the people. They intermarry with the people, and if they survive the service, where there is plenty of fighting, hardships, and flogging, and but very little promotion, in fact more kicks than halfpence, where, we ask, must they return once more, but to the ranks of the people? We therefore think that we are amply justified in calling the army the people's army. But in this we have not alluded to those persons who are born to command the serjeants and privates. Our readers are aware that, in what's called the English army, there is a custom established, not certainly by the soldiers, by which all the situations of ease and emolument are generally filled by persons belonging to what are called noble families, or more properly rich families. By this scheme boys of fifteen or sixteen, without having left their mother's apron-strings, can, on paying a certain sum of money into a certain office, procure what's called a commission, that is, power to receive a certain portion of money out of the public taxes. But it is not enough that the boy who never earned a penny in his life should get this comparative sinecure just because he chances to have a rich father, mother or uncle, who can put down a certain sum of money. No, things don't stop here. The aforesaid boy, brave fellow, can make another bounce over the heads of those veterans who have grown grey in the service of their country by his merely paying another sum of money into the War-office. All this is certainly a d—d fine system for those who command, but not so for those who are to ldt o obey—that is the great body of the army, the serjeants and privates. A system precisely similar to this prevailed in France previous to what is called the Revolution, that is a change by which the people were obliged to divide the land among each other like brothers, and merit was permitted to rise in every branch of the public service, but particularly in the army. Prior to the French Revolution no man, however brave or well-conducted, could procure any rank above the hopeless position of a private or a serjeant, except he belonged to the dronish and unproductive classes calling themselves nobles, but of which we can convey a better idea by the word idlers. How long this state of things is likely to continue in these countries we don't know, but we think we see what Talleyrand called a beginning of the end. Every dog has his day, and God knows the poor serjeants and privates deserve their days. Why not adopt the system of rising from the ranks which the people adopted in France, when, maddened by oppression, they rose up and knocked their tyrants on the heads? Of course we the moral instructors of the Irish people



don't recommend the system of rising up and knocking on the head which the French were compelled to adopt. Far from it. We are the old friends of peaceable agitation. The Liberator has said, 'he who commits a crime gives strength to the enemy,' and we believe it is quite sufficient reason for the Irish not to commit a crime when we tell them that enemy is England. We are pretty sure they are not inclined to strengthen her at any rate. But to come to the point---the state of the army---what the devil are those persons in command about? Are they blind? Are they mad? Will they be warned by us whom they know well to be their friend, for if our columns were not open to the poor soldier, and if our pen was not used as a peace-preserver, we really believe there would not have been a mutiny long since. Yes, persecute the soldier to the utmost; over-drill him in the dog days; withhold his furlough; deprive him of his newspaper; confine him for the slightest fault; march him to the house of God armed and accoutered as if for battle, but leave him the press open and he has still some hope! But go farther, deprive him of an honest uncorrupted press and you drive him to madness, or perhaps we should say, revenge! Let us just look to the state of the 5th Fusiliers. Our readers will, no doubt, remember the hapless fate of poor M'Manus, who was proved to have dropped down dead from over drilling. Well, what was the consequence? A fine young man of unimpeachable character, an Englishman, and a Protestant, named George Jubee, stepped out of the ranks and drilled a hole through the body of the Adjutant, one Robertson Mackay, an infamous Scotch tyrant. Thus was the driller drilled. But this was not all. When an inquest was held on the carcass it came out that the colonel of this regiment had received a letter when the regiment was stationed at Fermoy, threatening him with the punishment of death, and we suppose the maddened Jubee would have fusileered the colonel if he had not wisely left the now dangerous post of over-driller to the care of Sawney Robertson Makay. The soldiers of the Fifth appear to be in their political principles decided repealers---not physical force repealers, for if they were so, having plenty of arms and ammunition, they could easily appeal to that open violence. This physical force or armed violence was what the government had the silliness to threaten the Liberator and his millions with; but from some cause best known to themselves they forgot to execute their threat! When a detachment of the Fifth left Loughrea some weeks ago, the repealers with their temperance bands accompanied that detachment for above two miles out of the town, and on taking their last sorrowful farewell, the soldiers are stated to have taken off their caps and given three cheers for repeal. Thus the country appears to have never been so safe, as the people and the army are on the best terms! This is exactly what a popular government would desire. But certain spy-employing monsters would seem to wish to tamper with the army, and to insigate it to fall on the unoffending people, men, women and children."

This was "the moral instructor," stating that "a young man of unimpeachable character, stepped out of the ranks" and committed murder by shooting his officer. Thus were the people to effect a revolution, which was to lead, as the moral instructor said, to "all the people of Ireland dividing the land among themselves like brothers." The Attorney-

General proceeded to read from the publication of Mr. Barrett, in which he (the writer) directed public attention to the army, showing up its component parts, and revealing the astounding facts of 42,000 Paddies serving in the pay of England." The next article he (the Attorney General) would read was what appeared in the *Pilot* newspaper, headed, "Rumoured death of General Jackson. The battle of New Orleans. A report, which we trust is untrue, was published in our last of the death of General Jackson, the hero of New Orleans, and by far the most eminent President the United States ever had, save the incomparable Washington. Be the report of his death true or false, the mention of his name has recalled to our mind the feat he achieved, an account of which may in these times, when so much is said about war and blood, be acceptable to our readers. The account which we allude to was written by Cobbett and appears in his work of "Paper against Gold." The life of Jackson by Cobbett we cannot at present lay our hands on, and is as follows: In the battle of New Orleans there were engaged from 10,000 to 12,000 British troops, sent from France under General Packenham, who had been extolled so much for his exploits in the peninsula of Europe. This army was furnished with all the means of destruction. A great fleet, with its seamen and marines aided in all its operations. The American General Jackson, a lawyer by profession, who had never before, I believe, seen a single regiment in the character of an enemy, with the inhabitants of New Orleans, aided by the militia of Tennessee and Kentucky, had assigned to him the task of defending the city against the army of regulars, and as they were called invincibles. With his untutored bands, even whose officers were not in uniform, he with inferior numbers attacked the British army twice in the night-time before they were ready for the main attack upon him. On the 8th of January, 1815, they advanced to that attack with rockets, bombs, an immense train of artillery, and with all the apparatus for storming the soldiers and sailors, having been previously stimulated and steeled against relaxation by assurances the most gratifying to their tastes and wishes. They finally arrived at the point of onset; the faggots which they carried to make them a road over the works, were just tossing into a ditch, in idea the city with all its spoils were in their possession. At that moment the brave and prudent enemy, with as much coolness as if he had been aiming at harmless birds, opened his fire on them, and swept them down like grass before the scythe of the mower. He sallied in pursuit, marching over blood, and brains, and mangled carcases; and, finally, to use the words of his countrymen, drove the survivors to their ships, and bade them to carry to England the proof of the fact that the soil of freedom was not to be invaded with impunity. There were more than half as many British soldiers and sailors killed and wounded in this battle as at Waterloo, where the British, though successful, had to help them, not only Irishmen and Scotchmen, but Belgians, Hanoverians, and Prussians. Who was Jackson? Was he an American or Saxon? No; he was one of the fiery-eyed Celts, an Irishman—one, too, when only about twelve years of age, received a wound in his cheek, the mark of which continued ever after, from a British Brute whose boots the high-souled boy refused to clean. The

firmness of the child, on that occasion, surpasses anything we ever read of. The brute of a British officer, for we cannot call him by any other name, commanded Jackson's brother, who was somewhat older than Jackson himself, in the first instance, to take up his boots and clean them. This the manly boy refused, alleging that he would perform no menial service, as he was the son of a gentleman. What did the cold-blooded English miscreant then do? He ran him through with his sword, killing him of course, dead on the spot! The next step of this dog was to order Jackson himself, with his slaughtered brother bleeding before him, to take the boots and clean them. No; was the manly Irish child's reply, you may murder, but you shall not dishonor or degrade me. Then it was that he received from the Cromwell-minded ruffian the wound on his cheek. Why do we recall these things now? We will confess that we have more reasons than one for doing so. The first is, that the deeds of our fellow illustrious countryman, as in the funeral oration of Mirabeau over Franklin, should be recounted at his death. The second is a desire we have to point out to Irishmen, aye, and to Englishmen too, that although he exhibited such generalship at New Orleans, he was only a lawyer, not having served his apprenticeship as a hireling to the committing of murder, like Wellington; and our third reason is an anxiety on our part to cram the falsehood down the throat of the editor of the *Times*, who for the purpose of slandering President Tyler, in consequence of the part taken in behalf of Ireland by his brilliant son, eulogises in his last publication General Jackson. Before we proceed to deal with the latter branch of the subject we cannot help remarking again, by way of warning to those who threaten us with aggression, that Jackson was only a lawyer. O'Connell is one too! The former surprised the British by attacking them twice in the night. So might the latter were he driven to it, especially as darkness equalizes undisciplined with disciplined men, throwing the advantage if any in favor of the former, the pike being, from the distinctive peculiarity of its shape, the weapon best adapted for night. We do not mention these things because we are anxious for an outbreak, but because we wish to prevent it. The best way to preserve peace is to show that we are prepared for war, for even bulls when they find that they are equally matched have the sagacity to be civil to and shy of each other." This document contained many other observations; but what he (they Attorney General) had read would be sufficient he thought, to show the court the description of language used, and "that the pike was the most useful instrument at night"--- of any part of the 24 hours. On the 27th and 28th of September, meetings of the association were held, at which Mr. O'Connell, Mr. John O'Connell, Mr. Ray, Dr. Gray, and Mr. Steele were present. On the 27th, the first of those days, the form of the arbitration was submitted to the meeting, and also the proclamation. One of those documents was headed with the harp and crown, and ran in the following form:--- "Whereas there has been formed for the district of ---, a court of arbitration Mr. ---, the secretary, will furnish, free of expence, the necessary forms, and give such necessary information as may be necessary for the legal commencement of arbitration suits. Signed, by order, T. M. Ray, secretary." This was a system which was not only to supersede the

proceedings of the courts of petty sessions, but those of every other court in Ireland exercising legal jurisdiction under the crown. He (the Attorney-General) had now arrived at an important date in those transactions, the 1st of October, when the Mullaghmast meeting was held upon the Rath. Upon that occasion Mr. O'Connell stated at the dinner "that a million were present," but he believed that by the lowest calculation they were stated to amount at least to 250,000. There were at it Mr. O'Connell, Mr. Steele, Mr. Barrett, Mr. Ray, and Dr. Gray; and this place it appeared, was selected for this multitudinous assemblage of physical force, for the reason stated by Mr. O'Connell, "that that was the spot on which English treachery, and false Irish treachery consummated the massacre of the Irish people." It would be said that it was not intended to excite feelings of hostility against different classes of her Majesty's subjects; but what was the meaning of such allusions addressed to an excitable people, who, if let alone, and had nothing to mislead them, would be obedient to the laws. A document was handed about at that meeting to inflame and excite those who could not get near enough to the platform to hear the proceedings, and was one of the most inflammatory description, headed "A full and true account of the dreadful slaughter and murder at Mullaghmast, on the bodies of 400 Roman Catholics." Amongst other things it said; "Two men of chief states were invited by the Earl of Connor, with many other followers, and when they came on the fatal Rath, expecting the olive branch of peace, they were surrounded by horse and foot, who, on the signal being given, fell upon and murdered them all;" and it concludes by saying; "That England was doing in India what was formerly perpetrated in that country, and she should also deserve to be subdued, if Irishmen were cowardly enough to give her the opportunity."

Amongst the flags at that meeting there were several upon which were inscriptions: "Remember Mullaghmast;" that meant remember the place where according to Mr. O'Connell's statement, that dreadful massacre was perpetrated upon so many Roman Catholics. Upon other banners were the inscriptions; "Ireland for the Irish—the Irish for Ireland."—"A population of nine million is too great to be dragged at the tail of any other country"—"Ireland must be a nation"—"Repeal," &c. &c. There were men with the inscription "O'Connell's Police" upon their hats. These persons did duty at that meeting. Mr. O'Connell in the course of his speech said, "he was proud to see his own police there, and he hoped he would shortly see no other police in Ireland," Mr. O'Connell arrived at the platform at Mullaghmast about two o'clock; that might be an unimportant circumstance, but it really was not so; he went on the platform dressed in his scarlet robes. That too, might be looked upon as a matter of little importance, but it was well known that there were many things which would have an effect on the minds of the lower orders, that could not possibly have much weight with the higher and more intelligent classes, and accordingly these stratagems were resorted to for the purpose of producing an effect upon the minds of the hundreds of thousands who had assembled at the Mullaghmast meeting. There was another incident occurred there of

the highest importance. It appeared that a crown corresponding with an Irish gold crown preserved in the College museum (that was Mr. Barrett's description of it), was placed on Mr. O'Connell's head upon taking the chair.

Although ridicule might be said to attach to that circumstance now, there was no such feeling in the mind of those who were engaged in it ; but, on the contrary, it was intended to create an impression upon the minds of the immense multitude who were assembled there, and witnessed the crowning of Mr. O'Connell. That idea might, as he had already said, be now ridiculed, but it was not ridiculed where the scene was acted and carried out ; and though everything that passed upon the platform, and all that was said could not be heard by all the persons present, there was one thing sure to be accomplished by crowning Mr. O'Connell ; it could be seen by every human being. The learned gentlemen then read the speech delivered at Mullaghmast by Mr. O'Connell :—" I accept with the greatest alacrity the high honor you have done me in calling me to the chair at this majestic meeting. I feel more honor than ever I did in my life, with a single exception, and that related to an equally (if possible) majestic meeting at Tara ; but I must say, that if a comparison were to be instituted between them, it would take a more discriminating eye than mine to discover any difference between them. There are the same incalculable numbers, there is the same firmness, there is the same distinction, the same exhibition of love to Old Ireland, and the same resolution not to violate the peace, not to be guilty of the slightest outrage, not to give the enemy power by committing a crime ; but peaceably and manfully to stand together in the open day to protest before many, and in the presence of God, against the iniquity of continuing the Union" (loud cheers). "At Tara I protested against the Union ; to-day I repeat the protest at Mullaghmast. I declare solemnly my thorough conviction, as a constitutional lawyer, that the Union is totally void in point of principle and constitutional force. I tell you that no portion of the empire has the right of trampling on the rights and liberties of the Irish people. The Irish parliament was instituted to make laws and not legislatures ; it was instituted under the constitution, and not to annihilate it. Their delegation from the people was confined within the limits of the constitution, and the moment parliament went beyond and destroyed the constitution, that instant it annihilated its own powers ; but it could not annihilate that immortal spirit which belonged, as a rightful inheritance, to the people of Ireland. Take it from me, that the union is void. I admit that it has the force of law, because it is supported by the policeman's truncheon, the soldier's bayonet, and the horseman's sword ; because it is supported by the courts of law, and those who have power to adjudicate. But I say solemnly it is not supported by constitutional right. The union, therefore, in my thorough conviction, is totally void. I have physical force enough about me to day to achieve anything, but you know full well it is not my plan. I won't risk one of you---I could not afford to lose any of you. I will protect you all, and I will obtain for you all the Repeal of the Union. There is not a man of you there, if we were attacked unjustly, illegally attacked, who would not

be ready to stand in the open field by my side. Let every man who concurs in that sentiment lift up his hand. (An immense number were displayed.) The assertion of that sentiment is our safe protection, for nobody will attack us, and we will attack nobody. Indeed it would be the height of absurdity in us to think of making an attack, when we can play the game peaceably and quietly. There is not a man in his senses in Europe or America that does not admit that the repeal of the union is now inevitable. The English newspapers taunted us, and their writers who first laughed us to scorn, now admit that it is impossible to resist the application for repeal (cries of 'more power to you.') I thought the monster meetings had demonstrated the opinion of Ireland. I was convinced that their unanimous determination to obtain liberty was sufficiently signified by the many meetings that already took place; but when the Queen's ministers' speech came out, I saw it was necessary to do something more. Accordingly I called a meeting at Loughrea, a monster meeting; we called another meeting at Clifden, a monster meeting; we called another meeting at Lismore, a monster meeting; and here we are now upon the Rath of Mullaghmast (cheers). At Mullaghmast, I choose it for an obvious reason. We are upon the precise spot in which English treachery, aye, and false Irish treachery too, consummated a massacre unequalled in the history of the crimes of the world, until the massacre of the Mamelukes by Mehemet Ali. It was necessary to have Turks to commit a crime in order to be equal to the crime of the English—no other people but Turks were wicked enough except the English. I thought this a fit and becoming spot to celebrate our unanimity in declaring, in the open day, our determination not to be mislead by any treachery. Oh! my friends, I will keep you clear of all treachery. There shall be no bargain, no compromise, nothing but the repeal and a parliament of our own. You will never, by my advice confide in any false hopes they hold out; you will confide in nothing until you hear me say I am satisfied; and I will tell you were I shall say that—near the statue of King William in College green. No, we came here to express our determination to die to a man, if necessary; but we came to take the advice of each other; and, above all, you came here to take my advice. I have the game in my hands, I have the triumph secure, I have the repeal certain if you obey my advice. I will go slow, you must allow me to do it; but I will go sure. No man shall be fined, no man shall be imprisoned, no man shall be prosecuted who takes my advice (hear, hear). I have led you thus far in safety, I have swelled the multitude of repealers, till they are so far identified with the entire population of the soil, or nearly so. I have seven eighths of the population of Ireland enrolling themselves as associates (cries of more power to you). I do not want more power, I have power enough. All I ask of you is to allow me to use it. I will go on quietly and slowly. I am arranging the plan of a new Irish House of Commons. It is a theory, but it is a theory that may be realised in three weeks. The arbitrators are beginning to sit; the people are submitting their differences to men chosen by themselves. You will see by the newspapers that Dr. Gray and my son, and other gentlemen, held a petty sessions of their own in the room of magistrates who have been unjustly deprived. We will submit all our differences to them, and will endeavour to do justice to all parties, and it will not

cost you a single farthing. I shall go on with that plan until I have all disputes decided by judges appointed by the people themselves. I wish to live long enough to see justice done to Ireland, and liberty proclaimed throughout the land. It will take me some time to arrange the state of the new Irish House of Commons; that plan which will be submitted one day to her Majesty, when she has got rid of the present miserable and paltry administration, and has an administration that I can support, constituted of friends of Ireland; we will then have a parliament; but I must finish that part of the job before I go further; and one of the reasons for calling you together was to proclaim throughout Ireland that I want to arrange that before I go a step further. The Conciliation Hall will soon be finished in Dublin, and it will be worth any man's while to go from Mullaghmast to Dublin to see what a beautiful hall it will be. When I have that arranged I will call together three hundred, as the *Times* newspaper called them, 'bog-trotters;' but better men never stepped upon pavement. I will have three hundred, and no thanks to them. I have but one wish for the liberty and prosperity of the people of Ireland. Let the English have England; let the Scotch have Scotland, but we must have Ireland for the Irish. I won't be content until I see not a single man in any office, from the lowest constable to the Lord Chancellor, but Irishmen, this is our land and we must have it. We will be obedient to the Queen, joined to England by the golden link of the crown, but we must have our own parliament our own bench, our own magistrates—and we will make some of the shoneens now upon it leave it." If there be any man in favour of the union let him say so (cries of not one) I never mistook you. Are there any for continuing the union (cries of no, no)? Is there any body for the repeal (immense cries of all, all)? Yes, my friends, the union was begot in iniquity; it was perpetrated in fraud and cruelty; it was no compact, no bargain, it was an act of the most decided tyranny and corruption that ever was perpetrated. The trial by jury was suspended—the right of personal protection was at an end—court martials sat, and the county of Kildare, among other counties, was filled with blood. Oh! my friends, listen to the man of peace, who will not expose you to your enemies. In 1798 there were brave men at the head of the people at large; there were some valiant men, but there were many traitors who left the people exposed to the swords of the enemy. On the Curragh of Kildare you confided your military power to your relations; they were basely betrayed and trampled under foot; it was ill-organized, a premature, a foolish, and an absurd insurrection; but you have a leader now, who will never allow you to be led astray. Even your enemies admit that the world has not produced any man that can exceed the Irishman in activity and strength. The Scotch philosopher and the French philosopher has confirmed it, that number one in the human race is (blessed be Heaven!) the Irish. In moral virtue, in religious perseverance, in glorious temperance; have I any teetotallers there (cries of "yes." Yes, it is teetotalism that is repealing the union. I could not afford to bring you together, I would not dare do it, if I had not teetotallers for my police (cries of "we are all police.") To be sure you are, without paying; and you will soon be

the only police, by the help of God. Oh ! my friends it is a country worth fighting or; it is a country worth dying for; but above all, it is a country worth being tranquil, determined, submissive, and docile for, disciplined as you are in obedience to those who are breaking the way, and trampling down the barriers between you and your constitutional liberty."

He had next to draw the attention of the jury to certain resolutions adopted at the meeting, and which were called the Leinster Declaration for Repeal." The first of these resolutions is as follows: Resolved--- That this meeting hereby declare its devoted loyalty to the person and throne of her gracious Majesty Queen Victoria, Queen of Ireland, and its determination to uphold and maintain inviolate all prerogatives of the crown as guaranteed by the constitution." "Resolved---That we, the clergy, gentry, freeholders, burgesses, and other inhabitants of the province of Leinster, in public meeting assembled, declare and pronounce, in the presence of our country, before Europe and America, and in the sight of heaven, that no power on earth ought of right to make laws to bind this kingdom, save the Queen, Lords, and Commons of Ireland; and here, standing on the graves of the martyred dead, we solemnly pledge ourselves to use every constitutional exertion to free this our native land from the tyranny of being legislated for by others than her own inhabitants." The martyred dead there meant the four hundred Roman Catholics that were massacred by what were termed the Saxon foreigners, "whose acts could not be exceeded in brutality by any people in the world, except the Turks." The next resolution was as follows: "Resolved---That forty-four years of devoted and successful labour in the cause of his country have justly earned for O'Connell, the Liberator of Ireland, the unbounded confidence of the Irish people; and that we, relying upon his supreme wisdom, discretion, patriotism, and undaunted firmness, hereby pledge ourselves, individually and collectively, to follow his guidance under any and every circumstance that may arise; and come weal or woe, never to desert the constitutional standard of repeal which he has raised."

There was also a concluding resolution for a petition to parliament for a repeal of the union, to be entrusted for presentation to a repeal member. That meeting having been held after the prorogation of parliament, he was not at liberty to apply to it the remarks which he had offered as to other meetings that had previously taken place, respecting the fact of not a single petition for repeal having been presented from any of them during the last session; but he would leave it to the jury to decide whether it was intended that any petition should be presented from that meeting no more than from the others, or whether it was not intended by the demonstration of physical force to intimidate and overawe, and not petition the legislature. On the same day a dinner took place in the pavilion erected on the Rath of Mullaghmast, where they would bear in mind "the Irish Catholics had been massacred." They would thus be better able to understand why one of the banners or emblems used on the occasion, contained an Irish harp without a crown---and the Irish wolfdog with the inscription---"No more shall Saxon give blood for our repast---the dog is watching---he is roused---and treachery expelled from Mullaghmast." On another banner was the motto, "Remember Mullagh-



mast," which, considering the circumstances, was very expressive. On another was "Mullaghmast and its martyrs---" "A voice from the grave." At the dinner, Mr. O'Connell, Mr. John O'Connell, Mr. Ray, Mr. Barrett, Mr. Steele, and Dr. Gray were present, and Mr. John O'Connell, who presided in the chair, and in introducing the first toast, used these words, "I do not, because I cannot, anticipate that in any phrase of circumstances the toast I have now to give will be received otherwise than well, by Irishmen; it is the health of the Queen; whatever may happen, her throne in Ireland is secure. When, the other day, we distinguished between the vain and babbling words that were put into her mouth, we distinguished well between the monarch and the minister. And we would make the same distinction as clearly, and as well, were bloody deeds and hard blows to be attempted. Her ministers may fix her throne amidst bloody fields, and blazing cities, and slaughtered corpses. Let them take care that the ruddiest stream flowing might not be their own blood, and the brightest and fiercest flame might not be from the stronghold from which they now insult the Irish people. Whatever they do, whatever they threaten, we will go on; and so sure as there is a heaven above us, we will establish her throne here among a peaceful, a happy, and a contented people. 'The Queen, God bless her.'" At the dinner Dr. Gray read a letter, dated September 26th, 1843, and signed Thomas Ffrench, which was as follows:

"This mighty movement, unprecedented in the history of nations, has now assumed a magnitude much too immense to admit of retrograde or compromise. It has, in fact, terrified the foes, as much as it has delighted the friends of Ireland. Some step must and will be taken. Menaces have been tried with signal discomfiture. Overtures of peace will doubtless be now experimented---promises of conciliation, and pledges as to the removal of grievances. Can these be now accepted? I answer never! never! The hour of delusion is past. The scene upon which will be collected the flower of Lagenian patriotism---the Rath of Mullaghmast, the monument of Celtic confiding valour, and of Saxon cowardice and treachery, will not I am sure be ineffectual in imparting to the vast assembly an instructive lesson, as to the permanent necessity of cautious counsel in future. Why should *Punice fides* so long usurp the dignity of the adage in classic pages. Let it at once yield to *Britannica fides*---a more apt and pregnant designation. A cursory glance over the annals of Ireland is sufficient to demonstrate that the history of British connexion with this country furnishes instances of Saxon perfidy, exceeding in numbers and magnitude any in the history of Carthage, or even in the universal history of the world---I have the honor to be, gentlemen, yours faithfully,

"THOMAS FFRENCH."

Mr. Barrett made a speech at that dinner, in which, among other observations were the following:---"It has been said, that as we visited the hill of Tara to recall the virtues and glorious days of Irishmen, in order to awaken the sentiments by which we may be restored to independence, so we visit the Rath of Mullaghmast to day to recollect the treachery by which Ireland was betrayed, and to prevent, as one of these letters said, the credulity which would again expose this oppressed country to Saxon turpitude." The Attorney General then proceeded to read several volumi-

nous passages from the speech of Mr. O'Connell at the dinner. The learned gentleman, in allusion to Mr. O'Connell's observations with reference to the slaughter at Mullaghmast, said that that was a transaction which occurred, or was alleged to have occurred, in the reign of Queen Mary; and, for the obvious purpose of creating hostility between the subjects of the crown in different parts of the empire, this exciting language was used in reference to it. After the lapse of centuries history was ransacked for the purpose of producing a feeling of animosity between the people of the two countries; and yet they would be told, on the defence, that those parties were innocent of the charge laid against them in the indictment, of conspiring to excite hostility amongst different classes of her Majesty's subjects. Dr. Gray also spoke at the dinner; he was the chairman of the committee who prepared the report, recommending and organizing the courts of arbitration. He said, "I stand up to return thanks, not on behalf of this class, or of that class, but on behalf of the judges appointed by the people; for the first time the people have judges—for a long time past they were in the habit of being ruled and governed, and trampled upon by aliens and enemies; by enemies who, although living among us, were not our friends, but our foes; who lived among us till they found out that which would give them an opportunity for the exercise of their petty malicious tyranny. But now we have persons as our judges, men selected among ourselves, deriving their authority not from any patent appointments, not from any constituted assembly, but deriving it directly and solely from ourselves. He (the Attorney General) did not conceive there was any other portion of these proceedings to which it would be necessary to call attention.

On the 2d of October, a meeting of the association took place. It was attended by Mr. O'Connell, Mr. Steele, Ray, and Mr. Steele. On that occasion Mr. O'Connell, after adverting to his plan for the issuing of writs for members to the Irish parliament, made some observations with reference to an advertisement issued immediately previous to the Clontarf meeting. On the 3d of Oct., another meeting of the association took place; the persons present at that meeting were Mr. O'Connell, Mr. John O'Connell, Mr. Ray, Mr. Steele, Mr. Duffy, the Rev. Mr. Tierney, and Dr. Gray. That included all the defendants, with the exception of Mr. Barrett. A letter was read at that meeting, which showed the kind of tyranny which had been practised to force persons to join the repeal movement, something upon the same principle as that with respect to the Tullamore meeting, to which he had already adverted. It was a letter signed by Patrick Skerrett, chairman of the town commissioners of Loughrea, forwarding the sum of fourteen pounds as the subscription of fourteen of the town commissioners of Loughrea. He stated the names of the subscribers, and said that they "remitted their subscriptions through the Rev. J. Macklin. One will pay in a few days, and two or three, who were recreants, it is determined to expel from our body with all convenient despatch, when the proper opportunity occurs;" upon which part being read, O'Connell said; "They are quite right to turn out those who will not become repealers." That was the freedom with which they were to treat all those who would not turn repealers. They (the jury) remembered what had occurred relative to the Tullamore meeting, to which

circumstance he had already adverted. Here they had the matter going on among the higher classes. They had two commissioners, in whom was vested the property of the town, by the corporation act. They had one of those town commissioners, who sent up the subscriptions of others, stating that there were two or three recreants, whom it was determined to expel from their body with all despatch, when the proper opportunity occurred, and they heard Mr. O'Connell expressing his approbation of this tyranny over the free exercise of private judgment in a matter of this description, and he was sorry to say that he believed many persons had been drawn into this repeal movement by a system of what he considered oppression and tyranny. At that meeting Mr. Steele made a speech which would be detailed to them by the witness who should prove this part of the case. One of the circumstances connected with this prosecution had been this. There was a statement of a speech which it was said, in fact, never was made, and of which they (the jury) should have an opportunity of judging. It was somewhat singular that it was published in the papers of three of the defendants. They would have an opportunity now, if they wished, of examining one reporters of those three newspapers, who reported that speech, and he asked them now to test this speech, and make this inquiry by examining one of their own reporters. He would venture to anticipate that they would not examine the reporter who reported that speech, a person over whom the defendants had control; and he might observe that with respect, for example, to the witness, whom they (the crown) should produce, who reported the speech at this meeting, if the defendants questioned the accuracy of his report of what took place there, they could also examine, as to every part of it, the reporter under their own controul, who reported everything which took place. And although in the report there might be some trifling variation, which would necessarily arise where there were two reports, their case would be to endeavour to throw discredit, he supposed, upon what he should prove. The three defendants having reported every part of the proceedings from time to time in their own papers—some of them having been present at several of those meetings—would they then in their defence endeavour to prove that every word they published in their newspapers was all pure imagination—that there never was a meeting at Mullaghmast—that there never was a speech made there, but that it was all the imagination of their reporter. He should as soon take their own reporter's account of it as the one laid before him, and for the purpose of proving the criminality of those proceedings they could be found just as criminal upon the reports in the newspapers. He would ask them (the jury) to see whether they would ask the question of their own reporter when they went into their case, and they would find that they would not produce the reporter for the public press who gave those reports, a witness who, having been under their own control, would be willing and anxious to give evidence for them. They would be told, perhaps, that they did not like to produce their own witness. There was another speech made at this meeting, which was one of some importance, and to which he prayed the attention of the jury. It was a speech made by the Rev. Mr. Tierney. He might observe, with respect to this speech, which was a very strong one—it was very shortly published both in the *Pilot* and the *Freeman*, but the *Nation*

had given it at length—not in the very words of Mr. Tierney as he would prove to them, but substantially the same. The learned gentleman then read the speech of the Rev. Mr. Tierney, as made at the meeting of the Repeal Association, on the 3rd of October, which was as follows :—“ It is an old story, but it is not the less valuable on that account, that a thing once well begun is more than half finished. Repeal has had a noble beginning this year, and from the glorious progress it is making, I ask, who do the countless multitudes who surround the Liberator wherever he goes through the provinces, numberless as the waves of the ocean, assemble; or why do so many of yourselves congregate together here around him? Is it for the purpose of looking at the illustrious individual, to do honor to his presence? Is it to gaze upon the greatest friend of the human race? Is it to feast the eye to satiety upon one who is marked out by Divine Providence, as the saviour of his country? No; though that would be justifiable in you, still you come here for a better purpose—you come here to help him in rescuing your country from a state of slavery to be a free nation—you come here to enable him to make your own Ireland, the land of your birth, the land of the happy and the free. And let me ask you, are you all prepared to do so? (cries of ‘yes, yes.’) If you are, give him deeds as well as words. I can answer for the country I have the honor to belong to Monaghan; and for the parish that I have also the honor to be the priest of, that there we are determined to give him our hands as well as our hearts. We are determined to give him acts as well as deeds, and not to leave in his power, or in the power of others, to say the people of the north are cold and frozen like the region they inhabit; the iron has sunk deep into their hearts, they love not liberty, they deserve to be slaves. Oh! there was a time when the people of the north, aye and the men of Monaghan, were found to be the first to resist, and the last to bend to the proud Saxon; there was a time when they did not shun the battle field; there was a time when they were found to be the first to resist, and the last to bend. Bear me witness ye different streams of the Blackwater; bear me witness the very parish I have the honor to come from, Clontibret; bear me witness, Benhurb and the battle of the Yellow Ford, in my neighbourhood. These are bright spots in the history of my locality, and as I am talking of by-gone times, permit me to bring to your recollection a few facts connected with the history of my country. In the year 1587, Hugh O'Neill was created Earl of Tyrone; he was then in the fiftieth year of his age; he was one of the bravest generals that ever commanded an Irish army. In the year 1588 Sir William Fitzwilliam was Lord Deputy of Ireland; he was a bloody and inhuman monster; he was a foul murderer and robber. I shall mention to you a robbery and murder he committed in my country. He had Red Hugh Macmahon, chieftain of Monaghan, arrested upon a false charge, and brought to Dublin; he was, however, acquitted, and the Deputy engaged to have him conducted in safety to his own home. On his arrival there he was seized by the English soldiers under the command of Sir Henry Bagnall; he was executed at his own door, his head was struck off and sent to the Castle of Dublin, and his lands and his estates were divided between the same Sir Henry Bagnall, a Captain Ansley, and others of his English murderers. On account of this frightful and inhuman murder, with many other murders and robberies thou of

daily occurrence, many of the northern chieftains confederated for their own safety. They raised an army, and gave the principal command to Hugh O'Neill, Earl of Tyrone. In the year 1595 he encamped at the town of Monaghan, with the Irish under his command; the English were commanded by Sir John Norris, and his brother Thomas Norris. Both armies met in my parish, Clontibret; the Irish were separated from the English by marshes and surrounding bogs of certain townlands. The English being repeatedly repulsed and beaten by the bravery of the Irish, and the vigilance of their general, Sir John Norris; but the general's horse was shot under him, and the general himself, and his brother, Thomas Norris, were both severely wounded and carried off the field; in the mean time the commander of a regiment of dragoons, of the name of Sedgrave, made a charge upon the Irish, and succeeded in gaining the pass. When he crossed the river he was met by Hugh O'Neill, the commander of the Irish; both rode furiously at each other: Sedgrave, after breaking his spear, jumped off his horse, seized O'Neill by the neck and dragged him off his horse, when the noble earl drew a dagger from his belt and buried it in the bowels of his adversary, who rolled a lifeless corpse on the earth. The English fled; the Irish gave an hurrah of triumph, and dreadful slaughtering ensued upon the spot. In that castle O'Neill captured all the military stores, arms, and ammunition of the enemy, except the purse and the chest. That money was thrown into a ditch; and as a matter of history afterwards, it was believed that the English who fought, had no money; but that was not really the fact, for they left it behind, and a man of the name of Logan, about fifty years afterwards, in making a ditch, got about 2,000*l.* which they left behind. This battle was fought in Clontibret. He was then in the fifty-eighth year of his age, and he was able, in single combat, to beat the stoutest man in all England. Three years afterwards, he fought the great battle of Yellow Ford in the same locality. In that battle the Irish and the English lost their general—the same Sir Henry Bagnall, the murderer of MacMahon, was shot dead. All the principal officers of the army and 2,500 soldiers were slain on the field of battle, while the Irish had but 200 men killed and 600 wounded. Why, it may be asked, when the Irish were so successful and fought such noble battles, why were they some time afterwards so unfortunate? I answer, English gold and Irish perfidy. And let me ask, in return, is there now no English gold and Irish perfidy? Where are all the emancipated Catholic nobles? Where are some—, but thanks be to Heaven, where indeed, where are some of our own prelates? Where are the hordes of place-hunters that you have here every day about the Castle? Where are the would-be aristocracy that every man will occasionally meet in his own little isolated locality? The hireling reptiles! Let me have O'Connell and we can do without them. I have said English gold and Irish perfidy; a price of 2000 pieces of gold was set upon the head of O'Neill; deserted and betrayed by many of those who should have supported him, he fled into France, and died at Rome in the year 1616, I think in the 79th year of his age. Oh! may the errors of the past be the warnings of the future. You have seen the great O'Neill, the descendant of so many kings—the hero of so many fights—the victor of so many battles, sacrifices for ever all his earthly possessions and hereditary estates for love of glory. He sunk into a grave—his ashes are at

Rome—they are now in a foreign clime, almost unknown and forgotten. Oh! if they are not unknown and forgotten, I hope that due honor will be paid yet in Ireland to his name and to his virtues.

I have said you are successful when you are united. Now you are united, nothing can mar your prospects, nothing can blight your success, nothing can prevent you, save either your own tinidity, your own treachery, or your own wavering. Are you ready to desert your leader and sell your country? (never, never). Then if you are not, and I know you are not, I shall only remark there are two ways that present themselves to you; one brings you to slavery, the other conducts you to happiness and victory. If you select the first, by cringing and flattery, and licking the hand that smites you, you may prolong a wretched existence for a few more years---

‘ Like the lamb that’s doom’d to bleed to-day,  
Had he thy reason would he frisk and play;  
And skip about—enjoy his merry mood,  
And lick the hand that’s raised to shed his blood.’

If you prefer the latter— honor, glory, your country, your children and generations unborn will bless you. Mr. Chairman, in the name of the county I am from, and particularly of my own parish, Clontibret, where a hundred fights were fought, permit me to hand you, in the name of that parish, in the name of that people, the children of the men that fought the battle of victory, unassisted from any other locality, but being of the North and of that country alone, permit me in their names and in my own, to have the honor of handing to you 92l.” He would now ask them if they understood what Mr. Tierney meant in the commencement of his speech by inquiring of the people at this meeting if they came there to enable themselves to make Ireland the land of the happy and the free, and if they were prepared to do so; also when he said that his parishioners were ready to give their hands as well as their hearts to the cause. He thought it would be impossible to mistake it. It did not suggest peace. He would now go back a few days, in order to bring before them some matters connected with the preliminary of the Clontarf meeting. The learned Attorney General then read the advertisement which appeared in the *Nation* of the 30th of September, headed “ Repeal Cavalry,” which was as follows :—“ Repeal Cavalry—Clontarf meeting—The Committee for this national demonstration being apprised of the intention of many repealers to appear mounted at Conquer Hill, Clontarf, recommend the following rules to be observed for the regulation of the cavalcade at this first muster and march of the mounted repealers. First, all mounted repealers of the city or from the south and west side of the county, to muster on the ground, Harcourt-street fields, on Sunday the 8th of October, at twelve o’clock at noon, and form into troops, each troop to consist of twenty-five horsemen, to be led by one officer in front followed by six ranks, four a breast, half distance, each bearing a wand and cockade distinguishing the number of his prescriptive troop. Second—The regulation wands and cockades will be furnished by the committee to such gentlemen of the city or county as shall apply and be approved of to lead each troop. Third—

That no person shall be permitted to join the cavalcade without a cockade and wand, and that until one troop is complete no second troop be formed. N.B.—The committee will make the necessary arrangements to prevent delay or confusion at the turnpike-gates. Fourth—Each horseman to take and keep the place assigned to him on joining his troop, and remain in rank until dismissal of the parade in the meeting-field. Fifth—That such troops as shall be formed by half-past twelve o'clock do proceed in their order at slow time by the following route—Harcourt-street, Stephen's-green West, Grafton-street, Westmoreland-street, Sackville-street, Britain-street, Summer-hill, Ballybough-bridge, Clontarf road. Sixth—The mounted repealers from the northern parts of the county to muster and form as above prescribed at the southern extremity of the Howth road and bring up the rear of the Dublin cavalcade to the meeting-field, Conquer Hill. Seventh—That the chairman and members of the committee, bearing wands and cockades, do form the mounted staff in advance, and that the muster, march, and parade at the meeting-field shall be under their sole order and direction until dismissed after the proceedings of the meeting have commenced. Eighth—That the horsemen on the meeting-ground shall keep a proper distance from the platform, so as not to incommode those attending on foot; and it is earnestly requested, on the other hand, that no obstruction or interruption will be offered to the cavalcade by those on foot or in vehicles, so that the order and regularity of the march may be preserved. God save the Queen. Mount for repeal. March for Clontarf. The committee will meet at the Corn Exchange each day during the ensuing week from four to five o'clock.—Dated Corn Exchange, 30th September, 1843 " At a meeting of the association, held on the 2d of October, Mr. O'Connell alluded to this advertisement in the following terms: "I wish to say I saw with great surprise in some of the newspapers, on Saturday, a paragraph headed 'Repeal Cavalry; Clontarf Meeting.' I think it was a very good thing, but it ought not to have been printed; and I need not inform the Repeal Association not to pay the least attention to it. We were considering it was likely that horsemen would be at the great meeting at Clontarf; of course every gentleman, every repealer who has a horse in Dublin, is likely to ride there. They must observe the most perfect order, because if the horsemen mingle with the carriages, those on foot might be trampled on." This advertisement, however, or quiz as it was called, was not suppressed, but another was substituted for it, in which the word troops was changed into groups, and the words officer, muster, parade, &c., were omitted. The placard remained in every other respect the same, and it was just as well understood by the people as the former one. The whole substance and meaning of the original advertisement was left with all its illegality on the face of it. The learned gentleman referred to an opinion of Lord Tenderden's, which pronounced it unlawful for subjects of this country to practise military manoeuvres of their own accord. He then read an advertisement of the 7th of October in reference to the Clontarf meeting, which was as follows: "The Great Clontarf Meeting. At a meeting of the committee of the Clontarf demonstration, held this day, the Liberator moved the following resolutions: First, that out of respect to the wishes of several highly respectable Protestant clergymen, it is determined that the procession to

Clontarf shall not be formed nearer to Dublin than the Crescent, Clontarf road, and that the cavalcade shall muster there, on Sunday next, at two o'clock precisely. Second, That the meeting of horsemen, advertised for Harcourt-street Fields, do not take place there, but that they muster at the Crescent, and fall in behind the Liberator's carriage, at the same hour. Charles Gavan Duffy, Francis Morgan, Secretaries. It has been determined by the committee to convenience the great number of strangers who will be present, that no platform tickets shall be issued, but that gentlemen and ladies shall be admitted to the platform by payment at the meeting.—Corn Exchange, Wednesday, 4th of October, 1843." The learned gentleman then read an article which appeared in the *Pilot* of the 6th of October, headed "The Battle of Clontarf," which was as follows: "This, the Repeal year. Among the many things that have been done in it to awaken the Irish spirit amongst the inhabitants of this country, and to teach them a self-confidence and self-respect, nothing has been more effectual than the holding of meetings on particular spots where their ancestors had suffered some great disaster, or obtained some signal advantage. It is, as it were, treading over the days that are passed, or reading the history of Ireland anew. It is recalling to our minds, as in a picture, the calamities that our fathers experienced, or the feats they achieved. For this reason it was wise that meetings should have been held at Tara and Mullaghmast, and for this reason it is particularly wise that another should be held at Clontarf. In the whole range of Irish topography no spot is more celebrated than this. It was here that Irishmen, under a commander as prudent, as brave, taught a lesson to their Danish invaders that has never been forgotten. Would to God that there had been soldiers of equal spirit, and commanders of equal prudence and bravery, to meet the plundering and blood-thirsty Saxons, in subsequent years, when they first set their feet upon our soil! Oh! if there had, what a world of misery Ireland had been spared! Should the game of subduing us be attempted now, however, such a people exists, and such a commander could be found. Some say our leader is too old for the camp or the field. It is false. He is of Herculean frame, buoyant in spirit, and youthful in constitution. His age is only sixty-eight years. That of Brian Boroihme when, on Good Friday, in 1014, he fought and conquered the Danes at Clontarf, was eighty-eight years. This should serve to warn our rulers against wantonly attacking O'Connell. Clontarf---they should remember Clontarf!"

Mr. Barrett then gives what he calls the description of the glorious battle fought there, from the annals of Innisfallen, as translated by General Valancey, but which it is unnecessary to trouble you by reading. "Thus terminated the battle of Clontarf. What strikes a person most on reading the account of it is the bravery that the Dal-Cassians under Brian displayed in repelling such a host of invaders from their shores, to which they had been welcomed by so many traitors among the Leinster Irish. In those days every petty chieftain was called a king, and had, no doubt, his passions and his jealousies, as well as greater monarchs. Brian, stern and vigorous, was a man of such consummate judgment and bravery, that he awed some, and conciliated others, into submission to his authority. Had Ireland been unanimous in his time, or in the subsequent



time of Henry the Second, neither the Danes nor the Saxon serfs, headed by the Norman robbers, would have dared to set their foot on her shores; but it was the destiny of her children to be always disunited among themselves, and through that means they became a prey to the tyrants and plunderers by whom they were attacked. A new spirit has, however, arisen in our days, Ireland is becoming united; for we make little count of the few paltry bigots that are keeping aloof. Education is doing its work---prejudices are melting before it. It is an indisputable fact that the people of this country were never so much under the command of any one man, or so manageable, as they are at present. Neither were they ever so sober, so intelligent, or more brave. From this it follows that they never were so formidable, if wantonly attacked; and the physical, the moral, the intellectual position of them, together with the coolness, the courage, and the great capacity of their leader, should, as it will, protect them from aggression. All that could be required of them, if they were attacked, would be to imitate the conduct of their ancestors, the Dal-Cassians, who never entered a field without being resolved 'to conquer or die!' A statement follows of the hardships experienced by the Dal-Cassians on their return to their own country after the battle of Clontarf. Mr. Barrett concluded the article in the following words:--- "May the Irish people of the present day, should they be driven to it, imitate the brave Tipperary men, or former Dal-Cassians."

In the *Nation* of the 7th of October, a letter was published, signed "A Dal-Cassian," in which, amongst other things, the writer begged leave to offer a suggestion to his countrymen that for the future, after the meeting at Clontarf, on the following day, the Irish should not use any Saxon or Norman names; but as they had been changed in ancient times at the conquest of Ireland, that they should, whenever it was possible, name the different counties by their original names, by the adoption of some plan by which the true Irish names could be restored. Now he (the Attorney-General) was aware that it was not necessary for him to more than advert to that meeting at which Mr. O'Connell, on the 1st of October, said that he had yet five, six, or seven more monster meetings after the Clontarf demonstration which should have been held. However the Clontarf meeting, they were all aware had been proclaimed, and did not take place, owing, as he believed to the consciousness of its illegality. Upon the following day, the 9th of October, a meeting took place, and the rooms of the association not having been large enough, it was held in Calvert's Theatre, in Abbey-street, where Mr. O'Connell, Mr. John O'Connell, Mr. Ray, Mr. Steele, Dr. Gray, and the Rev. Mr. Tyrrell, (who was now no more) were present. He (the Attorney-General) would not think it necessary, nor should he state anything that fell from Mr. Tyrrell; but he proposed an important resolution in the presence of the traversers, which was to have been proposed at the Clontarf meeting, if it had been held.

The learned Attorney General read the resolutions, which were as follow:---"Resolved---That this meeting hereby declares its devoted loyalty to the person and throne of her gracious Majesty Queen Victoria, Queen of Ireland, and its determination to uphold and maintain inviolate all the prerogatives of the crown, as guaranteed by the constitution.

Secondly—Resolved---That we, the clergy, gentry, freeholders, and other inhabitants of Fingal, in public meeting assembled, declared and pronounce, in the presence of our country, before Europe and America, and in the sight of Heaven, that no power on earth ought of right to make laws to bind this kingdom, save the Queen, Lords, and Commons of Ireland: and here, standing on the ever memorable battle-field of Clontarf--the Marathon of Ireland--we solemnly pledge ourselves to use every constitutional exertion to free this, our native land, from the tyranny of being legislated for by others than her own inhabitants. Resolved---That forty-four years of devoted and successful labour in the cause of his country have justly earned for Mr. O'Connell the Liberator of Ireland, the unbounded confidence of the Irish people; and that we, relying upon his supreme wisdom, discretion, patriotism, and undaunted firmness, hereby pledge ourselves individually and collectively, to follow his guidance under any and every circumstance that may arise, and, come weal come woe, never to desert the constitutional standard of repeal which he has raised. That petitions to the House of Lords and Commons, now read, be adopted, praying for their recognition of the inalienable right of an Irish nation to a domestic legislature, and in order thereto for a repeal of the legislative union." He (the Attorney General) had now gone through the statement of the several meetings to which he thought it might be important to direct the attention of the court and jury; and he would proceed to again refresh their recollection of the charge upon which the traversers were indicted. They were charged "for a combination, conspiracy, and confederacy to raise and create discontent amongst her Majesty's subjects, and to excite them to hatred and contempt of the government as by law established, and to offer unlawful opposition to said government."

Now, he would ask, whether after the detail he had laid before the jury, they could entertain a doubt of the guilt of the defendants, if his case was proved of a conspiracy to excite the discontent and disaffection stated in the indictment amongst her Majesty's subjects. It was impossible to carry on a government if the inhabitants of the different parts of the empire were to be excited to hatred against one another: and he was sure that the people of Ireland would never have been excited as they had been, but for the conspiracy of the traversers to accomplish that object, and it was their (the jurors') duty, if they believed his statement (when it was proved), not to hesitate or have any difficulty in finding them guilty of the charge. There was another part of the indictment, as to exciting discontent and disaffection in the army, and they would understand that it was first necessary to excite disaffection amongst the people before they could succeed in working upon the army, and creating discontent and disaffection amongst her Majesty's soldiers against her government. The purpose was to accustom the people in the first instance, to come from great distances, and to march in order, after which, when they had seen their strength by physical demonstrations, they might awe the government to grant repeal; for as long as the army remained faithful to the Queen and to their country, there could have been very little expectation that even such an organization could be of any avail; therefore following up that step, another important part of the indictment was an attempt to

create disaffection, and to lead their minds from their duty, by using expressions relative to non-commissioned officers and soldiers, of an inflammatory nature. He (the Attorney General) believed that it was Mr. O'Connell's object that those assemblages should separate quietly, but when the illegitimate object was completed, and repeal wardens were appointed in every parish, he had nothing to do, but, according to Mr. Barrett, "to stamp his foot and Ireland would be free." If the traversers contemplated an outbreak that, in point of law, would be a higher offence than that for which they were indicted. The present was only a misdemeanor case, subject to fine and imprisonment. It was sufficient for the purposes of the case to believe that the meetings were held to overawe the legislature, and by the demonstration of physical force and the organization of the country to obtain the repeal of the union, by means contrary to the constitutional tribunal and the houses of parliament of the united empire. If the intention of the traversers was to overawe the legislature, and obtain the repeal of the union by intimidation to be effected by that organization, he need scarcely tell them that such a proceeding was illegal, because it would be utterly impossible to carry on the government if particular alterations in the law were made, not by the representatives of the people, but by the people themselves, by means of physical force and intimidation. Amongst the mischiefs arising from these assembled multitudes was one to which Mr. O'Connell adverted, he believed at the Mullaghmast meeting; namely, that when the people were organized to an extent such as had occurred, it might be impossible to prevent an outbreak. If it were so he might not have been able as was suggested by himself, to controul and restrain the feelings of those who had been excited. "It came," he said, "across him as a sickly dream," that there might be a tumult. He was apprehensive that there might have been a disturbance, and he appealed to the assembled thousands whether they would continue to obey him. He (the Attorney-General) would admit that it was not intended that these meetings should terminate in outrage; on the contrary, he believed that part of the system of conspiracy was that the meetings should end peaceably and quietly. Of course they had reason to rejoice that such a course had been adopted, and that they had not discovered the misery which would have arisen if any revolt had taken place, but that did not do away with the illegality of the proceedings; for it was an obvious principle, so obvious that it was not necessary to press it further upon their minds, that if intimidation were carried on to such an extent that the government could not act independently, but would be compelled to take measures under the control and pressure of the multitude, such a proceeding would be illegal. Although in many of the speeches and publications, an ultimate outbreak was adverted to, yet he contended, from a review of the entire of the case, it was intended more to carry out the principle of intimidation, which was done in a great measure by the assembling together of so many hundreds of thousands of people. For the purposes of the present trial, which was a misdemeanor trial, and for a conspiracy, it was sufficient for the jury to believe that these thousands were congregated together to intimidate the government, to constitute the offence of conspiracy laid in the

indictment; and it was not necessary for the purpose of the sustinment of the indictment, that the jury should believe that an outbreak was ultimately intended, for as he had already said, even although one of the traversers might not have intended that a tumult should have followed, yet they were guilty, if such a consequence were the end and effect of their addresses to the populace. As well might it be said, as urged by Baron Rooke, that a man who fired a pistol amongst a crowd did not intend to injure any one in it, as that a person who inflamed and excited the populace, was not accountable for the effect of his address. When Mr. O'Connell said he had a sickly dream of a tumult arising, he not seem to be unconscious that such would take place; but whether he intended or not that there should be an outbreak; whether he intended or not that a particular meeting should end peaceably, and at a future meeting recourse should be had to physical force, he (the Attorney-General) told the jury, subject to the correction of the court, that these meetings and combinations of people to procure certain measures were illegal, upon the present indictment, which was for a mere misdemeanour and an endeavour to make alterations in the law otherwise than by constitutional means.

There was another branch of the conspiracy which related to the establishment of arbitration courts, and he would tell them what the court would also announce to them, that with respect to a conspiracy of this kind, it was not necessary for a verdict of guilty against the traversers that they should be guilty of every portion of the offence laid to their charge. It would be sufficient if they were of opinion that the traversers were guilty of any part of the indictment; and it was not necessary, on the part of the crown, although he believed he should be able to establish every part of his case, to prove every part of the offences charged in the indictment. He had already detained the court at such great length, and he felt himself to be so incapable of protracting his address further, that he would then conclude, and he could not do so better than by reading the following extract from the charge of the late Chief Justice Bushe, delivered at Maryborough assizes:---“ I will conclude by recalling your attention to all that is in our power to do, and that is our duty. Let us do that firmly and temperately---I say firmly and temperately; for in agitated times it is hard to preserve the equable balance of the mind. Fear is a corrupting principle, and alarm operates in different and opposite directions. In such times the influence of panic has led men, I am sorry to say, of all classes, to truckle to the insurgents, to decline those duties which the administration of justice calls for; or, what is worse, to discharge them in a spirit of base compromise, in the silly hope of securing what could never be more than a temporary and precarious safety, or from the abject motive of earning an ignominious popularity. On the other hand, panic is often the source of a blind, rash, indiscriminating zeal, an exasperating energy, more resembling the temper of war, than the staid step and sober-minded character of justice.

We should always remember that we are engaged in a conflict of law against outrage, and not of one violence against another; and that in proportion as the enormity of the offence calls for exertion, it also calls

upon us to distrust, or at least to watch ourselves and to proceed cautiously and circumspectly, not only because the punishments to be inflicted are heavy, but because it is impossible to approach the discharge of our present duties without a deep personal interest in putting down the existing mischief---an interest which we are bound to neutralise by the coolest impartiality--- Let us, therefore, co-operate in our several departments, in carrying into execution the laws, of our country; and in the grand jury room, in the petty jury box, and on the bench, enter into a covenant with ourselves so calmly and scrupulously to investigate every charge, as to insure the conviction of every guilty man, and the acquittal of every man whose innocence is manifested, or whose guilt is made doubtful."

The Solicitor General said the examination of the first witness would occupy a great deal of time, and it would be advisable to adopt such a course as would be most convenient. It was quite impossible that the direct and cross-examination of the first witness could terminate at any hour that evening.

Chief Justice---Are we to understand that it is the wish of the Crown that this case should not proceed further to-day?

The Solicitor General said he could not say that the Crown had any wish on the subject, but it would be probably more convenient to adjourn then, than to leave off in the middle of the examination of a witness.

The Chief Justice said the court were quite willing to go on further, unless the Crown thought it more expedient to adjourn at that stage.

The Attorney General said it would be a very inconvenient thing to adjourn during the examination of a witness.

Chief Justice---So it would. Let the court be adjourned until ten o'clock to-morrow morning, punctually.

The court then (at five o'clock) was adjourned to this morning.

### THIRD DAY.

The court sat precisely at ten o'clock. The traversers were in punctual attendance. The jury having been called over, and having answered to their names,

The Clerk of the Crown directed the crier to call Frederick Bond Hughes.

Solicitor-General. What is your name? Frederick Bond Hughes.

You are a short-hand writer? Yes, I am.

You have been constantly in the habit of reporting? Yes, I have been reporting for the last seventeen or eighteen years.

Upon different occasions? Yes, upon different occasions.

Do you remember having come over to this country in September last? Yes, I do.

On what day did you arrive? On the 29th of September; on the 30th I mean.

On what day of the week ?

Witness. On Saturday. I never was in Ireland before; I recollect the following day, the 1st of October; I went to Mullaghmast on that day; I think I arrived there about half-past twelve o'clock; there were a great many persons assembled about the grounds when I got there, a large number; I should think, about thirty or forty thousand persons, as near as I can guess; I could not see over the whole extent of the ground; I saw persons coming from different places with banners; if you will allow me to refer to my book I shall tell you the inscriptions I took on that occasion, a note or memorandum of what passed; that is, of the speeches; I have it here; I saw the inscriptions; "Hurra for the Repeal!" was one of them; "A Nation of Nine Millions is too strong to be dragged at the tail of any other country;" in the front of the platform was an inscription, "The man who commits a crime is an enemy to his country," "Ireland must be a Nation," "A country with Nine Millions of inhabitants is too great to be dragged at another tail of the Nation;" there were several persons in and about the platform, with papers round their hats, and staves in their hands; there was an inscription on the papers, "O'Connell's Police;" I know the traverser, Daniel O'Connell; I see him in court [Here Mr. O'Connell, who sat at the table immediately under the witness's chair, rose and bowed with a smile to the witness.] Mr. O'Connell arrived at the place of meeting about two o'clock; I am not aware that I saw Mr. John O'Connell on that occasion; there were some of the gentlemen present whose names I learned, Mr. Ray and Dr. Gray, I think I should recollect Mr. Ray (the witness here turned to the traversers' box in which Mr. Ray and Dr. Gray sat, and identified both gentlemen); I know Mr. Thomas Steele, I saw him at that meeting; I see him now in court; Mr. O'Connell was dressed that day in a sort of velvet robe, scarlet or claret colour; some gentleman proposed that Mr. O'Connell should take the chair; that motion was put and carried; Mr. O'Connell addressed the meeting on his taking the chair; I took notes of what Mr. O'Connell said upon that occasion to the best of my ability; I took my notes in short-hand; I have both the transcript and the original notes here (a large parcel which lay before the clerk of the crown was here opened, and several neatly bound books were taken out, one of which was handed to the witness.

The Solicitor-General then desired the witness to read to the jury what Mr. O'Connell said, which he proceeded to do. When he came to a particular passage the Chief-Justice desired him to read it over again, which he did as follows; "I admit that the Union has the force of law, because it is supported by the policeman's truncheon, the soldier's bayonet, and the horseman's sword; but it is not supported by constitutional law."

Chief-Justice—What is the number of that paper or page from which you are reading? Page five, my lord, from No. 1, book. The witness continued to read Mr. O'Connell's speech on taking the chair. When the witness read as far as the passage, "and take it then from me that the Union is void."

The Solicitor General said if the traversers wished they might examine him as to the other portions of the speech.

Mr. Hatchell, Q.C., said it would be better to read the whole of it, as there were portions of it still unread which might be important on the cross-examination.

Witness—The whole of the speech!

Mr. Hatchell—Yes; there are passages here and there interspersed that we think most material to the traversers.

Witness then proceeded to read the remainder of Mr. O'Connell's speech at the meeting at Mullaghmast.

Examination resumed—I heard resolutions proposed at that meeting; the first resolution was proposed by Mr. Aylmer, see page 313; I heard the second resolution which was proposed by Joseph Hacket, of Kilkenny, and seconded by Alderman Keshan; it was as follows:—

“We, the gentry, clergy, freeholders, and other inhabitants of the province of Leinster, here assembled, do declare in the face of heaven and our country, that no power on earth save the Queen, Lords, and Commons of Ireland, can make laws for Ireland;” That resolution was put from the chair and carried.

Solicitor General—Who was the chairman? Mr. O'Connell was; the resolution was carried; after that I saw some gentlemen come forward and present Mr. O'Connell with a velvet cap; it was a round velvet cap; it was presented to Mr. O'Connell by Mr. O'Callaghan; Mr. O'Callaghan said he was deputed by the committee whose names were attached to the address to present him (Mr. O'Connell) with the national cap; Mr. O'Callaghan also presented an address to Mr. O'Connell (witness read the address.

Mr. O'Connell—Who is that signed by? By Mr. White and other gentlemen.

Solicitor-General—What was done with the cap after that? It was placed on the head of Mr O'Connell.

Did he then say anything? Yes; he said he accepted the gift with pride and pleasure; the witness then went on to read the observations of Mr. O'Connell on the occasion; there was another resolution read at that meeting; I look at page 46 of my report.

Look to page 46 of your report? It is before me.

Read the resolution which you find there? The witness read the resolution, which was to the effect---that a petition be prepared and presented to the Imperial Parliament for a Repeal of the Union.

Was that resolution put and carried? It was.

Look to page 49 of your report, and read the resolution contained in it? Witness read the resolution, which was a vote of thanks to, and of confidence in Mr. O'Connell. That resolution was not put by Mr. O'Connell, but by a gentleman who took the chair after him. The meeting was held in the open air at the Rath of Mullaghmast; I saw several gentlemen there that day; he pointed out, and identified Mr. John O'Connell, Mr. O'Connell, Mr. Steele. He looked about apparently for Mr. Barrett, but that gentleman was not then in court). He then identified Dr. Gray and Mr. Ray.

Did you know the persons of the traversers before that day? No, I did not. I knew the persons of Mr. Daniel O'Connell and Mr. John O'Connell. Mr. John O'Connell was in the chair after dinner. I heard him speak after

dinner when proposing the toast "The Queen." (He read the speech). I heard several letters read; there was one read from Mr. Thomas French, of Castle French. (He read the letter). It was dated the 26th of September. There was a gentleman present at the dinner who, I was told was Mr. Barrett. That person spoke on that occasion. (He then read a report of the speech made by Mr. Barrett).

To Solicitor General—Mr. O'Connell spoke at the banquet; this followed the meeting; referred to his notes, page 27; Mr. O'Connell then said, "This was a most delightful day for him; a day full of consolation and hope. How glad he was to be at Mullaghmast."

Mr. O'Connell—Speak a little louder,

Witness continued to read from his notes the speech of Mr. O'Connell to the part, "We had not one Sovereign of her family who was not a decided enemy of Ireland."

Mr. Hatchell, Q.C.—You have omitted the reference to the Queen.

Witness—"We had not a Sovereign *save herself* who was not a decided enemy of Ireland."

Mr. O'Connell—Read correctly. Mr. Hughes.

Witness continued.—"She was the first sovereign of the House of Brunswick that treated this unfortunate country with justice, and it is afflicting to think that her ministry are so base and perfidious, so paltry and selfish, as to endeavour to obtain advantages for themselves and their party at the expense of the high and chivalrous feeling of exalted allegiance which the people of Ireland bore, ay, and still bear, to their Queen." Witness read till he came to say, "a proof that each man——"

Mr. Fitzgibbon, Q.C.—That every man.

I might have misunderstood him.

He proceeded to read to the words "present oppressors."

Mr. Fitzgibbon, Q.C.—Oppressors?

When the witness came to that portion of the speech in which Mr. O'Connell spoke of the hostility of the minister to Ireland, considerable merriment was excited in court at the different allusions and expressions of the honourable gentleman. The following passage in reference to the Duke of Wellington was received with great laughter: "The poor old Duke! what shall I say of him, To be sure he was born in Ireland, but being born in a stable does not make a man a horse."

The witness continued to read to the close of the speech, when the examination was resumed.

Solicitor General—Turn to pages 6, 7, 8; see if the name of Mr. Ray is mentioned there? Yes, it is there; the chairman having given the toast of the Repeal Association, and called upon Mr. Ray to answer it, Mr. Ray rose and spoke to the toast.

[The witness here read Mr. Ray's speech, and then at the direction of the Solicitor General, to 7, 8, 9; read Dr. Gray's speech in answer to the toast—"The dismissed magistrates, and Repeal Arbitrators."]

Examination continued.—I remember attending a meeting at the Corn-Exchange the day after the meeting at Mullaghmast; it was on the 2d of October; I got admission there by having stated that I intended to



report; on the following day I obtained a ticket of admission from the Mr. Ray; the words upon the ticket were admit the bearer, Mr. Hughes, of the press, to all our meetings; at the time I got that ticket, I said you had better mention that I am the reporter from the government; Mr. Ray said no, that will be sufficient, it will admit you; the Conciliation Hall will be open soon, and we will have a different place then for yourself; it was understood at Mullaghmast that I was the government reporter; at the conclusion of Mr. O'Connell's opening speech there he stated that he understood there was a gentleman there on behalf of the government; I then got up and said I attended on behalf of the government to report the proceedings; Mr. O'Connell then said that on former occasions, when government reporters had attended, he had afforded them every facility, and furnished them with documents, &c., and that he should be happy to afford the same accommodation to me; I believe it was also through Mr. O'Connell that I received a ticket for the banquet. (Witness here identified Mr. Barrett as one of the persons who attended the meeting at Mullaghmast.) On the 2d of October, did you take notes of what occurred at a meeting of the association at the Corn-Exchange? I was not there at the commencement.

A juryman here withdrew. The solicitor General not having observed it, was apprised of the fact by the court, and the examination was suspended.

The Foreman of the jury complained that they had difficulty in hearing.

The Solicitor General desired the witness to speak louder.

Mr. O'Connell also begged the foreman of the jury to desire the witness to speak louder in giving his evidence, as he occasionally sunk his voice.

Mr. Ford said it would be well if the court would remove that parcel of barristers from the court who were getting phthisical and coughing, (laughter).

The Solicitor General then resumed the examination, desiring the witness to speak as loud as he could, and slowly.

Have you got the notes of the meeting at the Corn Exchange of the 2d October? I have.

Do you find there a speech of Mr. O'Connell, delivered after a letter from Limerick had been read by Mr. Ray? I do.

Witness then referred to his notes and read the speech of Mr. O'Connell on that occasion. He referred to a paragraph that had appeared in the papers, headed "Military organization at Clontarf," and stated that though a good quiz it never ought to have been printed; he hoped the association would take no notice of it, and pointed out that some arrangements as to the horsemen and carriages was absolutely necessary to prevent confusion among so great a number.

Now turn to the notes of what occurred at the meeting of the 3rd of October, but before we go to that state, which if the traversers were present at the meeting of the 2nd of October? Mr. O'Connell and Mr. Ray.

Was Mr. Steele there? He was.

Which of them were present at the meeting of the 3rd? Mr. O'Connell, Mr. J. O'Connell, Mr. Duffy, Mr. Ray, Mr. Steele, the Rev. Mr. Tierney, and Dr. Gray.

Do you see Mr. Duffy in court? I do.

And the Rev. Mr. Tierney? I do.

Look at page 13 of your notes and state whether a letter was read from Loughrea? I must state that all the letters and papers in my notes are not copies of the originals; I had applied to Mr. Ray for them, but had been told that I could not obtain them; having also been told that the copies printed in the papers were authentic, I copied them.

Who told you they were authentic? In the first instance I applied to Mr. Ray at Mullaghmast, for copies of the resolutions passed at the meeting, and when I saw Dr. Gray he appeared to have some reluctance to give them.

Mr. Fitzgibbon—I beg your pardon, please state exactly what Dr. Gray said.

The Chief Justice—When did you say you saw him first? Several days afterwards.

Mr. Fitzgibbon—Now state exactly what Dr. Gray said? Dr. Gray said he could not find the resolutions; Dr. Gray told me he could not find the resolutions that were passed at the Mullaghmast meeting; I did not procure them subsequently; Dr. Gray told me expressly that he could not find them; I told him I had applied to him because Mr. O'Connell had promised them to me, and that I wished him to communicate with Mr. O'Connell on the subject; he replied he would take an hour to consider, and that he would write me a note at the end of that period stating what his determination was; I said, "Oh, no; do not write to me; you had better see Mr. O'Connell;" I was then leaving the room, and as we were going out of the door by the staircase of the Corn Exchange O'Connell was coming up, and I said, "Oh, here is Mr. O'Connell; now, Dr. Gray, will you speak to him?" Mr. O'Connell addressed me, and said, "Well, Mr. Hughes, are you here for documents?" or something to that effect; I think that is nearly what he said; I answered that I had applied to Dr. Gray for the resolutions passed at Mullaghmast, and that he had told me he could not find them.

Mr. Fitzgibbon—You are quite certain that Dr. Gray used those words?—If you are not certain do not swear it. Yes, I am pretty certain he said that.

Solicitor General—Go on and state what next happened.

Witness—Dr. Gray then took Mr. O'Connell aside into a room; shortly afterwards Dr. Gray came out. On his coming out I asked him, "May I have the documents, or do you refuse them?" He replied, "Oh, no, I do not refuse them; I do not mean any disrespect to you, but I can't lay my hands on them;" and he further added, "I do not think I should waste my time in writing them out for Sir Robert Peel." I replied that "I had nothing to do with Sir Robert Peel, and that I was applying to him in my character as a short-hand writer for those documents." He, therefore, replied, "Oh, you may take them from the newspapers; they are authentic." On the following day I was in the Corn Exchange, and Mr. O'Connell was there. I addressed him and told him that Dr. Gray

had refused to give me copies of the resolution, but he told me they were authentic as they appeared in the newspapers. Mr. O'Connell replied, "Yes, yes, they are authentic." A letter from Loughrea was read at the meeting of the association on the 3rd of October. I got this copy of a letter from Mr. Ray; it is dated Loughrea, October, 2, 1843, and was read at the meeting of the association on the 3rd of October. The witness then read the letter [previously published in our columns.] It enclosed 14l. as the subscription of 14 of the Town Commissioners, and was signed Patrick Skerrett, chairman, William M'Carthy, secretary.) It was Mr. O'Connell read that letter.

Solicitor General---Did Mr. O'Connell make any observation immediately after reading the concluding passage, "that they were determined to remove two or three recusants from the body with all possible despatch, when the opportunity offered? Yes; he said they were right to turn out those who would not become Repealers.

Judge Perrin---Is that letter addressed to any one? Mr. O'Connell said "I received this letter this morning,"

Is it addressed to anybody?

Witness (after again looking at the document)---This is a copy, and there is no address on it to anybody.

(The witness then went on reading Mr. O'Connell's observations in moving that the letter be inserted on the minutes, and the thanks of the association conveyed to the writer and the other worthy gentlemen named therein.)

Witness---Mr. Steele was present at that meeting; he addressed the the meeting; he said he rose to second the motion of the Liberator; that he had expressed some very strong opinions on the Loughrea meeting; that he considered that meeting more important than even that at Mul-laghmast, where

"Behemoth, biggest born of earth,  
Upheaved his vastness."

(Sensation through the court). Dr. Gray was at that meeting; he read the names of certain persons, whom he moved should be appointed arbitrators; Mr. O'Connell seconded the motion, and it was carried; Dr. Gray then said he had a short report from the arbitration committee to present, and he had to move that some gentlemen be appointed arbitrators; the first of whom was a gentleman who was recommended by no less than eight millions of people; he was known by the name of the Liberator, and he moved that he be appointed arbitrator for the city of Dublin, which motion was seconded and carried, and Mr. O'Connell said that he accepted the office, and would devote one day in the week to the duties of it, with the other gentlemen who were named; Doctor Gray at that meeting read a list of arbitrators that were admitted, many of whom were gentlemen who had been dismissed from the commission of the peace.

Solicitor General---Did Mr. O'Connell make any observations respecting that document? He said—"I hope I shall live to see the day when the hall of the Four Courts will be very empty" (laughter).

Solicitor General---Look to passage 64 and see if any observations were

made by Dr. Gray? After he had moved the admission of Mr. Balfé as an arbitrator, and the motion was carried, he said, "I wish to state, before we leave the question of arbitration, that all the necessary documents have been forwarded to the districts where the arbitrators have been appointed. I recommend the parties not to open the courts until those documents be forwarded."

Solicitor General---Which other of the traversers was at that meeting? The Rev. Mr. Tierney was present. In page 97 I find the speech of Mr. Tierney, delivered at that meeting of the association. [Witness then went on to read the reverend gentleman's speech.] Mr. O'Connell spoke after the delivery of the speech by the Rev. Mr. Tierney, and said the reverend gentleman deserved the thanks of the association, and that he (Mr. O'Connell) heard the speech with pride and pleasure. The motion was carried by acclamation, and Mr. O'Connell moved that the association should adjourn to the next Monday, when he (Mr. O'Connell) said he would revive a resolution of which he had formerly given notice, and that it was useless to expect any redress from the English parliament. He (Mr. O'Connell) said he hoped the members of the corporation who attended in their robes at Mullaghmast would meet him (Mr. O'Connell) on the following Sunday at Clontarf, but at all events he (Mr. O'Connell) would be there in his robes; I attended a meeting on Monday, the 9th of October, which was held at Calvert's Theatre in Abbey-street; Mr. John O'Connell was in the chair; there were present Mr. John O'Connell, Mr. Ray, Dr. Gray, Mr. Duffy, Mr. Steele, and the Rev. Mr. Tyrrell.

Solicitor General---Oh, the Rev. Mr. Tyrrell is dead.

Witness in continuation---I see page 43, 44, and 47 of my notes, and see the resolutions. He proceeded to read them, but was interrupted by

Mr. Hatchell, who said, Let him read the report of the entire meeting, if you please.

Solicitor General---That would occupy a considerable portion of the day, and at present I will only read the resolutions passed at the meeting.

Mr. Homes---You have a right to any one particular speech, but not to the entire.

Mr. Hatchell---I beg your pardon. I have a right to it all

The witness then in accordance with the directions of the Solicitor General read the speech delivered on that occasion by the Rev. Mr. Tyrrell, and all the resolutions passed at the meeting, which were the same as those passed at Mullaghmast.

Witness---I see page 30 of my notes.

Solicitor General---Do you find an entry there of any thing that was said or done by Mr. Duffy at that meeting? Yes, he said I have to hand in money from Mr. Blank, of blank parish, and blank county; I mean by blank I could not catch the name or residence of the person.

Look at page 35 and see if Mr. Ray took any part in the proceedings at the meeting on the 3rd of October? Yes, he said it was essentially necessary that every accommodation should be afforded to the press, and the passage to their table kept free; if the reporters were inconvenienced they cannot perform their duty, and the public will be disappointed.

Look at page 35, and read what Mr. O'Connell said upon that occasion? Witness read what Mr. O'Connell said, which was to the effect that the passages should be kept clear, and that Mr. Ray should have the passage clear on account of the manifold letters.

Look at page 52, and see if any money was handed in by Dr Gray? Yes, I have a memorandum to that effect, and there were several sums handed in by him; I was never present at any meeting of the association when applications were made for newspapers.

At this period the court and jury retired for a few minutes, and the witness being told by Mr. Hatchell that he might retire from the witness box, did so.

Examination in chief resumed.

Solicitor General desired witness to look to his notes, and see if he had a report of the proceedings of the 9th October, to look at page 34, and see if anything had been said by a person named Green; Mr. Greene from Liverpool; at the meeting at Calvert's Theatre.

The witness read as follows: "Mr. Chairman and gentlemen, I regret that a cold I got on board the steamer prevents my addressing you at much length. I regret I have not prepared an address to the Liberator, but I have, in the name of 400 Repealers of Liverpool, to express to you, illustrious Sir, our readiness to do or die if necessary. I hand in their names, and request Volunteer cards may be prepared for us.

Solicitor General—That is enough.

#### CROSS-EXAMINATION OF MR. BOND HUGHES

Mr. Hatchell, Q.C.—Mr. Hughes, you stated that the first occasion of your coming to Ireland was to attend the meeting at Mullaghmast? It was.

Did you come for that purpose? I did.

Mr. Hatchell, (to the court) It is suggested I should apprise the court, on the part of which of the traversers, I appear, so as not to interfere with the counsel who have to cross-examine the witness for the other traversers. I appear for Mr. Ray. There are pieces of the evidence given in reference to other traversers which the counsel who appear for these gentlemen will have occasion to advert to.

Mr. Fitzgibbon said, on the part of the traversers, that it was not the intention of the different counsel for the traversers to cross-examine, except in some particular occasions. It was probable that not a single question would be asked of the present witness.

The cross-examination was then resumed.

Mr. Hatchell—Have you, Mr. Hughes, been a professional reporter for the public press? No, not for the public press.

Mr. Hatchell—What was your business then? I am a short-hand writer.

You never were on any public journal? Never.

Have you ever attended public meetings in England to report the proceedings at them? I have.

Have you for many years, previous to last, pursued that profession from an early period of your life? I have.

Were you particularly employed in England for the purpose of coming here as a government reporter? I was.

Then, as I understand you, you were employed in England to report the meeting at Mullaghmast? No, I only received orders to come to Ireland.

Your orders were not to attend to any particular meeting, but to any meeting? My orders were to act according to directions.

It was for the purpose of reporting, subject to such regulations as you received on this side of the water? It was.

Where did you apply for orders when you arrived here?

I had a letter to the Attorney General, and on applying at his place I was told he was not at home; I was then directed to Mr. Brewster.

When did you arrive? I came late on Saturday.

What time did you come over? On the 30th September.

At what hour did you get to Dublin? On Saturday, about 10 o'clock. I came by the morning packet from Liverpool, and we had a bad passage.

The meeting at Mullaghmast was to be next day? It was.

When did you go to the Attorney General? I went about eleven o'clock to Merrion-square.

You stopped at some hotel, I suppose? Yes, at Gresham's Hotel.

How did you go to Mullaghmast? I ordered the waiter to get a fly or car.

Had you any person to assist you? Yes, an assistant came over with me.

I suppose you saw the Crown Solicitor? No, I did not.

When did you go to Mullaghmast? About 12 o'clock.

You had no person but your own assistant? No.

Where did you bring him from? I brought him with me from England.

When you say he was an assistant, was it for the purpose of reporting? It was to transcribe notes.

He attended the meeting, however? He did.

Is he learning the business of reporting? Oh, he is a good reporter himself.

But I suppose he did not keep his hand idle? I believe he took some notes.

Did he not assist you in taking notes as well as in transcribing? Yes.

What is his name? His name is Latham.

Where is he now? He is in Ireland.

Did he go back with you? We came from England together, and we went back together.

What brought him over the second time? I don't know.

Am I to understand then that Latham came over with you after your first returned. Yes?

He came over when you were sworn before the grand jury? Yes.

Did he come over on the last occasion with you? He did.

What did he come over for; was it to be examined as a witness? I have no doubt he will be examined as a witness, but I do not know it for certain.

Why did you not say that before? I am not certain of it.

I think you said he took a note of the proceedings? he transcribed a portion of the notes I took.

Did any other person come over with you as a witness in this case? No other.

Is that gentleman in the office of Mr. Gurney? He is not in Mr. Gurney's office at all.

I suppose you depended on the person who drove you to the meeting, because you did not know where it was yourself? We stopped at Naas.

You got there early? Yes; there were not many persons on the ground.

How long was it before Mr. O'Connell arrived? About an hour and three quarters.

Had any arrangements been made with respect to the platform? Yes; I got on the platform near the reporters.

I suppose you had a good view of the assembled persons? Yes, I had.

The people came on the ground according to their parishes? Yes.

There were bands? There were bands.

Did you not understand them to be temperance bands? I cannot say anything about them.

Did you see anything about them with regard to their dress or instruments to inform you? I saw some bands, and all I know is that they were bands.

Did you see any banners? Yes; I saw some with mottos.

Did you ever attend meetings in England at which there were either banners or mottos? I have never attended meetings where they have been used except at the time of Queen Caroline?

Did you ever attend county meetings? I attended meetings of the Chartists in Manchester, one in the Carpenters' Hall.

Did you ever attend an open air meeting? No.

Did you ever report any meetings about 1831 or 1832? Was then only commencing reporting.

Have you attended any of the great reform meetings? Have no recollection of attending any of them.

Perhaps you were only an apprentice then? I was practising for myself at the time.

Were there a great number of women and children mixed with the crowd at the meeting? There were.

Was not the meeting of a perfectly peaceable character altogether? It was.

Have you, at that meeting, perceived anything in the least tending to riot or disturbance among the people themselves? Not the slightest.

In what manner was the Queen's name received?

The Queen's name, when mentioned, was always received with loud applause; after Mr. O'Connell's arrival with his friends, I remember it was mentioned that I was on the platform as the government reporter; on the announcement of Mr. O'Connell, that he understood there was a gentleman there representing the government, I declared I was the person, and then Mr. O'Connell offered me every possible facility and accommodation, for the purpose of reporting for the government; he shook

hands with me, not upon that but upon a subsequent occasion; I afterwards got a ticket of admission to the banquet for myself, and one for my assistant, Mr. Latham; there was no secrecy at all about me and my assistant being there for the government; a great number of persons of respectable appearance were at the banquet: it commenced about five o'clock, and terminated somewhere about nine; I felt a few minutes before its termination; at the banquet there was order and regularity among the persons present as well as among those at the meeting; I saw at the meeting persons who had bands around their hats, and who called themselves O'Connell's police; I think that those preserved order, and prevented the people from getting upon the hustings, and that the persons on the platform would be very much incommoded unless there were individuals to preserve order; I did not return to Dublin that night; I only went as far as Naas; I did not transcribe any notes there; the Queen's health was given at the dinner, and received with very great applause; I marked it so in my notes; the health of Prince Albert was given after that of the Queen; it was given to the chairman, Mr. J. O'Connell; I have a particular note of the manner in which Prince Albert's health was received; it was with great applause; it was before those healths were given that different letters of excuse, for non-attendance, were read by Dr. Gray; I have a note of Dr. MacHale's letter; it was signed John Archbishop of Tuam; I did not take a short-hand note of documents when I got copies of them; I got copies from Mr. Ray, not of all but of some of the documents; Mr. Ray threw them on the table; that was at the banquet; Dr. MacHale's letter is dated 29th September, 1843.

(The witness here read Dr. MacHale's letter, apologising for non-attendance at the banquet.)

Have you notes of a letter from Mr. Talbot? I doubt whether I have it.

Have you one from the Right Rev. J. Cantwell? and if so, read it. (Witness here read it.)

Look at the notes of a letter from the Rev. J. Keating. I have not got it; I have only one more letter read at the Mullaghmast meeting; I applied for the letters after the meeting, but could not get them.

When you asked for the letters read at the meeting, as well as for the resolutions, you were referred by the parties to those in the newspapers as authentic? Yes.

Did you find them authentic? I found the dates corresponded with my notes.

Look at that letter in the *Freeman's Journal* of Monday, October 1st (handing in a copy); was that letter read? To the best of my recollection, that letter of the Rev. Mr. Keating was read.

Can you read it from your notes? I cannot.

Have you notes of Lord Ffrench's letter? I have a memoranda of two letters that were read, dated Castle Ffrench.

Well, state, in a general answer, the number of persons from whom letters were read? There is one letter signed "Michael Boylan" and Patrick Ternan." I will not undertake to say that all these letters were read. I asked if the copies in the newspapers were authentic, and being told they were, I took them in the order in which I found them there. This was immediately after the meeting.



Was it not when they were fresh in your recollection? No; it was several days afterwards, but within a week.

You looked at the letters in the newspapers, did they correspond with the facts? To the best of my recollection they were all read. There was one from Sir Colmór O'Loughlin (laughter), two from Castle Fferrech, one from Mr. Campbell, one from the Archbishop of Tuam; but being promised copies, I did not pay much attention to them. I considered they would all be handed to me.

You have reported the exhibition of a certain motto, something about a nation of so many millions being too great to be dragged at the tail of another. Now, don't you remember that that motto was taken from the *Morning Chronicle*? Certainly not.

Oh! I do not mean to say that your notes are not infallible; but did you not know that the motto itself was taken from a leading article in the *Morning Chronicle*? I did not.

Do you ever read that paper? I do not (great laughter.)

I suppose you only read the *Standard*? (laughter.) I read neither; having to attend committees of the House of Commons, I do not read many newspapers.

Did you ever attend a trades' meeting? No.

Were you ever a member of any institution in England for the fostering and encouragement of native manufacture? No.

Have you heard of the Repeal cap, manufactured by Mr. White, of Thomas-street? I have.

Did you go there to fit yourself with one? I did not.

Did you ever hear what the cost of one would be? No.

Do you understand anything of the nature of puffing? I do not.

Don't you know the distinction between the puff direct and the puff indirect? No.

Don't you think it would be a very good way to puff a cap or a coat to mention the name of the maker at a public meeting? No doubt of it, (laughter).

You would have no objection to encourage native manufactures in any way you could? Not the slightest.

You see no great harm in that? No.

If Mr. White could have made a cap to fit you, would you have worn it? I did not wear it.

Did you handle the cap at all? I did not, but I admired it (laughter).

Would it not be an excellent travelling cap to go about with in the pocket? It would (laughter).

Do you not know that gentlemen who visit Paris often come back with the tricoloured Republican cap as a comfortable cap to sleep in? I know they bring caps home with them sometimes.

Now you, as a man of the world, did not think there was any treason in that cap? I formed no opinion.

Whether is this a cap to fit the crown or you have a crown to fit the cap? Either way you like it.

Were you patriotic enough to buy any thing to further Irish manufactures? I did (laughter).

I suppose you bought a tabinet for your lady? I did (great laughter).

It was a great advantage then that you were brought so far for the encouragement of Irish manufactures, and if you had been disengaged you would have no objection to get a lady for the cabinet? Probably not (immense laughter).

Indeed you might be worse off (great laughter).

How long did you remain in Ireland after the meeting at Mullaghmasi? I left on the 18th of October.

Did you attend a meeting of the Repeal Association on the 2d of October? Yes, I did. There, as at all other meetings, I was treated with the utmost possible civility. I received every courtesy and kindness at the association.

You only read such extracts from Mr. O'Connell's speeches, if I mistake not, as the Solicitor General requested you to read? That was all.

Then you have notes of several other expressions which fell from Mr. O'Connell, independently of the extracts which you read in court?

Oh, yes; I have notes of very many passages from Mr. O'Connell's speeches which I did not read, but I will read any part you require.

Look through your notes, if you please, for some remarks of Mr. O'Connell's on Ribbonism at the meeting of October 3rd; they come immediately before a letter from Tallow, signed by a person named Jackson.

The witness looked over his notes, but was unable to find the passage alluded to.

Mr. Hatchell—The passage I alluded to came before the reading of a letter from Sharman Crawford; but I rather think you have it not, for I believe you did not take notes until after the reading of that letter.

The first remarks I have from Mr. O'Connell are in allusion to a meeting in Donegal.

Read what Mr. O'Connell said on that subject, if you please?

The witness here read from his notes the report of Mr. O'Connell's observations with respect to the Donegal meeting.

Go down a good way further, if you please, and read your report of the remarks which fell from Mr. O'Connell in reference to a remittance received from West Canada that day.

The witness read from his notes his version of the remarks in question.

Now, Mr. Hughes, will you be good enough, to refer to the report of the meeting at the Theatre in Abbey-street, and return to Mr. O'Connell's speech there—but that reminds me to ask you a question that I intended awhile ago. You said that Mr. O'Connell was dressed in crimson or scarlet at Mullaghmasi? Yes, he had a robe on.

Wasn't that the robe usually worn by the Lord Mayor of Dublin? Yes.

And were there not several other aldermen and town councillors there wearing their robes? Yes.

Read Mr. O'Connell's speech at the theatre in reply to the address of the repealers of Manchester. The witness read the reply, as previously published in the report of the proceedings at the meeting.

After reading the resolutions which were read by the crown, will you read

Mr. O'Connell's speech at that same meeting in Abbey-street. Witness here read the speech at length from his own notes.

Were you in Dublin any time after the Clontarf meeting? I was for four or five days.

Perhaps you were there? Yes; I was there.

What were the directions you received with the attendance at these meetings; were you to attend all the meetings? I was to attend the meetings at the Corn Exchange, and the monster meetings.

Were you aware of the proclamation being issued to suppress the Clontarf meeting? Yes; I was aware of it.

Did you receive any orders to attend there? I received no particular orders to attend; I went from curiosity.

Did you report what occurred there? No; I had nothing to report; I saw nothing there but troops.

Do you recollect any thing occurring at a meeting of the association, previous to the Clontarf meeting, whilst discussing the preparations for that meeting? No.

Have you any note that Mr. O'Connell mentioned an application from some Protestant clergyman in respect to the propriety of conducting the procession so as not to interrupt divine service? I do not think I have any such note.

I believe that took place at the corporation? I was not at the corporation.

You stated that when you came up to Dublin, after the meeting at Mullaghmast, you asked Mr. Ray for some documents relative to that meeting; what did Mr. Ray say to you? He said he was not the secretary to the Mullaghmast meeting, or he would give them.

You have stated the names of several persons who attended at the adjourned meeting, at the Corn Exchange. Have you not proved a speech as delivered by Mr. Steele there? I have.

Mr. Hatchell concluded his cross-examination, and it was resumed by Mr. Moore, Q. C., for another of the traversers.

Cross-examined by Mr. Moore—Direct your attention to the meeting of the Corn Exchange, on the 3d of October. Did you see Mr. Tyrrell there? I did.

Were you acquainted with his person before that? I never saw him before that day.

Mr. Moore—What time did you enter the meeting? I went there about 12 o'clock, and remained till half-past four or five.

Was it a very considerable meeting? No, it was not; the place was not very large.

Well, was not the meeting fully attended? There were 300 or 400 persons present.

Were there many speeches delivered? Not a great number.

Did not several persons speak there that day who are not now on their trial? Yes; I believe there were speeches made there by persons who are not now on trial.

Mr. Moore concluded his cross-examination, and Mr. M'Donough resumed it on behalf of Mr. Barrett.

Mr. M'Donough---Inform the court and jury what was the toast Mr.

Barrett spoke to at the Mullaghmast dinner? The witness hesitated for a short time, and then replied, "The People."

Look to your note of the meeting held on the 9th of October in Abbey-street. I have got it.

Mr. M'Donough—Enumerate the names of the traversers who were present at that meeting? John O'Connell, D. O'Connell, Mr Steele, Mr. Tyrrell, Dr. Gray, Mr. Duffy, and Mr. Ray.

Mr. M'Donough—You have not named Mr. Barrett—was he there? I made a mistake about him on a former occasion—he was not present.

Mr. M'Donough—Then, I presume, he did not speak there? He did not.

Mr. M'Donough—When you were under examination by the Solicitor General he asked you nothing about the dinner at the Rotunda—was Mr. Barrett there? Mr. Barrett was not there either. I mistook somebody else for him.

Mr. M'Donough—I think you stated you took the earliest opportunity of correcting your mistake? I did.

When was it? At the house of Judge Burton.

Were you at the house of Judge Burton at the time the recognizance was entered into, and did you then swear your informations? I saw Mr. Barrett there; I did not swear my information on that but on a prior occasion; I made an affidavit that day; it was an amended affidavit.

Do I understand you to say you amended the mistake with reference to Mr. Barrett by affidavit? I did not.

Were you present on the occasion when the recognizance to bail was subscribed by Mr. Barrett? Yes, I then amended the mistake; I mentioned it to Mr. Ray and Mr. Kemmis.

Were they attending for the crown? Mr. Ray is clerk to Mr. Kemmis.

Did you apprize them of the mistake with respect to Mr. Barrett? I mentioned to them I had a doubt about having been correct in stating Mr. Barrett was at the meeting.

When was this? On leaving Judge Burton's house.

What did Mr. Kemmis say? I can't recollect what Mr. Kemmis said.

When was this? In Kildare-street.

Before you reached Mr. Kemmis's house? Yes.

On the way can you not recollect what Mr. Kemmis said? He made no observation.

Then it was left as it was? I mentioned it to Mr. Ray before leaving Judge Burton's house.

When leaving the room, in the passage, was Mr. Barrett then in the house? He was.

What did you say? "I was mistaken in regard to Mr. Barrett; I had a doubt that he was at the Rotundo, or at the meeting at Calvert's theatre."

What did Mr. Ray say? I do not recollect what he said.

Did you return to have the error corrected? I did not take any steps further; I thought it enough to inform them of it.

Then it was the mistake as to Mr. Tierney that was corrected by affidavit? Yes. I did not correct the mistake as to Mr. Barrett; merely mentioned it.

Did you make that affidavit on the same day with your original depositions? No; I corrected the mistake as to Mr. Tierney the day the parties attended at the house of Judge Burton.

Then you called attention to the mistake with respect to Mr. Barrett? On that occasion.

CROSS-EXAMINED BY MR. WHITESIDE, Q.C., ON THE PART OF  
MR. DUFFY.

When did you see the traverser, Mr. Duffy? I saw him at the meeting at Calvert's theatre.

Did he speak there? He did.

Was it there he made the eloquent speech, "I beg to hand in — pounds for ——" (laughter)? He handed in some money.

Had you a distant view of the meeting? The place was dusky.

A dark, dusky affair—perhaps, now, you could not distinctly see the platform? I saw Mr. Duffy.

You reported fully and faithfully the meeting at Mullaghmast? I did, to the best of my skill and ability.

Now, you have seen large meetings before? I have.

Do you recollect the immense meeting which took place some years ago in London; I allude to that at which Dr. Wade attended in his robes, and a small body of 150,000 people paid a morning visit to Lord Melbourne? I was in Parliament-street, and saw Dr. Wade in his robes. I should say there was more than a hundred thousand, perhaps two hundred thousand.

Then they really do great things in England as well as poor Ireland? I never saw so large a body of men as that assembled on was occasion.

Do you attend the debates in the House of Commons? Sometimes.

Now, whether were the Irish or English multitudes best behaved; there was no crushing, you know? The people were exceedingly well-behaved at Mullaghmast.

In the House of Commons there are a number of ill-mannered gentlemen, who keep bad hours (loud laughter); now, as I know you are a man of candour, don't you give the preference for propriety of behaviour to the Irish people? They were very well behaved when I saw them.

Who did you get the letter of introduction to the Attorney General from? Mr. Gurney.

What is the date of the meeting at Calvert's? I think 3rd October; I thought it was the 9th.

RE-EXAMINED BY THE SOLICITOR-GENERAL.

I saw Mr. Ray at the meeting and asked him for the documents; he said he was not the secretary of the meeting; I saw Mr. Barrett at the Mullaghmast meeting; I applied to him in his character of Secretary to the Repeal Association; he said he was not the secretary of the Mullaghmast meeting; I saw him afterwards when I went to Judge Burton's to swear my amended affidavit with respect to the Christian name of the Rev. Mr. Tierney; I did not expect to see Mr. Barrett there; I knew him to be the person I saw at Mullaghmast.

The Solicitor General read the address to which the speech of Mr. O'Connell at Calvert's theatre, on the 9th, was an answer.

Mr. Hatchell objected, and submitted that the crown had no right to go

back to the meetings again. If it was necessary, it ought to have been produced on the direct examination.

The Chief Justice said he did not see any objection to the Solicitor General reading the address in answer to the speech.

The witness then proceeded to read the address of the members and warden's of the repeal association of Manchester to Mr. O'Connell, presented on the 9th of October.

After the reading of the address was concluded, the witness was permitted to retire—his examination having occupied the court from its sitting to a quarter past five o'clock.

Fleming Mathias Latham examined by Mr. Bennett, Q. C.

I know the gentleman who gave evidence last; I came over to Ireland with him for the purpose of being his assistant; I was present at the meeting at Mullaghmast; I have been engaged in taking notes for the last ten years; I transcribed Hughes' notes from his dictation; that was a very long time after the meeting at Mullaghmast; Hughes took the notes in short-hand and read them to me, and I transcribed them in long-hand; I know Mr. O'Connell; I have seen him in London; I took notes at the meeting for my own amusement, but not full notes; my sole object was to assist Mr. Hughes; he is a particular friend of mine, and I wished to come over to Ireland and see the country; I copied some resolutions at the banquet which were thrown upon the table to the best of my belief by Mr. Ray, but I am not certain that it was by Mr. Ray; I attended a meeting of the association on the Monday following the Mullaghmast meeting; that was on the 2nd October; I was not present at the association on the 3rd of October; Mr. Hughes had obtained two tickets of admission, one of which I got; I saw Mr. Hughes get those tickets from a person who I think was Mr. Ray.

#### CROSS-EXAMINED BY MR. FITZGIBBON.

You say you copied resolutions that were thrown upon the table? I did.

Were those the resolutions or papers that had been read as resolutions at the dinner? I cannot positively swear to the exact words, but they were the same resolutions in substance.

What became of those resolutions? They went round the table amongst the reporters, and I saw no more of them.

Did you see the newspapers in which those resolutions were published? I did.

Did not those newspapers contain correct accounts——

Mr. Bennett objected to that question.

Mr. Fitzgibbon—Did you not read the newspapers afterwards.

The Attorney-General—I object to this line of examination. Mr. Fitzgibbon may identify the newspapers, and put them in evidence.

Mr. Fitzgibbon—I think the trial, my lord, will be long enough without adopting that course. I, therefore, withdraw the question.

Mr. Moore—I understood you to say that it was Mr. Ray who gave the tickets of admission to the association, and Mr. Hughes knows that it was Mr. Ray. Certainly he did, he must have known him as he had become acquainted with him at Mullaghmast.

Chief Justice—Are you going to call another witness? I am not going

to interfere with you, but merely wish to ask if you are going to call another witness ?

Solicitor-General—Yes, my lord.

Charles Ross was examined by Mr. Sergeant Warren, and stated that he is a reporter on the London Press, and filled that situation for upwards of 20 years ; he came over here at the suggestion of government to attend the Donnybrook meeting, and report Mr. O'Connell's speech ; he did attend that meeting, and reported the speech of Mr. O'Connell ; made a transcript of his notes on the following day ; heard Mr. O'Connell at the outset of that meeting speak of the physical force of the people surrounding him ; (having read his report of the speech he proceeded to 'say) that there were about 40,000 persons at that meeting ; saw bands accompanying the people there ; the people came with the bands in procession ; saw a great number of flags there ; did not recollect any of the inscriptions or mottos on the flags ; saw Mr. John O'Connell at the meeting, but did not recollect seeing any other of the traversers there ; went to London on the second day after the meeting, and returned in the latter end of August ; attended a meeting of the association on the 28th August ; did not know who was chairman on that day ; the room was crowded, and the chairman was appointed before he got in ; saw, every day he attended there, Mr. O'Connell, Mr. John O'Connell, Mr. Steele, Dr. Gray ; saw Mr. Duffy, he thought, twice ; Mr. Ray acted as secretary on that occasion ; reported Mr. O'Connell's speech that day ; got documents from Mr. Ray. [Witness identified some documents received by him from Mr. Ray ; also, a document received by him from Dr. Gray. He also identified a document received by him in the clerk's office, entitled "An Address to the People of the British Empire," which, as well as the other documents, was handed to be marked.]

His further examination was postponed to the following morning, and the court adjourned at half-past five o'clock.

---

#### FOURTH DAY.

The court sat at 10 o'clock this day. The intense interest which prevailed on the former days was, if possible, increased. When the judges had taken their seats the case was proceeded with.

The jury having been called over, and answered to their names.

Mr. Ross, whose evidence occupied a considerable portion of yesterday, was again called and examined on the part of the crown by Serjeant Warren—He deposed that he was present at a meeting of the Repeal Association, which took place on the 28th of August ; that meeting was attended by three of the traversers—Mr. O'Connell, Mr. John O'Connell, and Mr. Ray ; witness has a note of Mr. O'Connell's speech on that occasion, in which he adverted to a plan which he had introduced at some previous meeting for the reconstruction of the Irish parliament. (Read an extract in question from Mr. O'Connell's speech). Has not his notes a copy of a letter read that day from Mallow, but thinks he has a detailed manuscript

copy of it? This manuscript was written at the association, and partly from my notes.

Look and see if you have a letter dated from Mallow, and purporting to be written by Richard Barrett Barry, which was read at the meeting?

Witness (reading from his short hand notes).—Mr. O'Connell observed, on reading a letter containing subscriptions that alluded to the Queen's speech, "that the speech from the throne was merely a ministerial production, and deserved to be characterised, as it was by the *Morning Chronicle*, as the essence of stupidity." He then adverted to the plan he proposed at the last meeting for the constitution of the Irish parliament, and he said he would take up as the basis of it the census returns of 1831, which could not be supposed to have been framed for any purpose connected with the Repeal of the Union. He was disposed to adhere to that census, except where it was mentioned that some error existed in the details. He had received a letter from Mallow——

Mr. Sergeant Warren---That's what I want. Where is that letter? I have not a copy of it; it is not here.

Sergeant Warren---Well, we cannot help it. What did Mr. O'Connell say in reference to that letter? He said that he thought that a fair case was made out for giving Mallow two members, and he proposed that the letter should be referred to a committee, to inquire whether any change should be made in the plan with reference to that town, which was agreed to after some further observation.

Mr. Henn---Have you any notes of what you call further observations? I have read them. Witness continued to read from his notes the speech of Mr. O'Connell, the material parts of which are as follow:—"There are many candidates for the preservative association. Gentlemen of the first fortune and of the highest rank are daily proposing to me that they should be named as candidates for it; there will be no difficulty whatever in getting 100 gentlemen. I am speaking entirely by anticipation. We must keep within the letter and spirit of the law, I am not at present prepared, nor do I think it necessary, to open the scheme of the preservative association; but I am working out my plan for the constitution of the Irish House of Commons, when it shall be established by act of parliament, or by the exercise of the prerogative of the crown. I am working slowly but surely. I am working for the Irish nation, and want to satisfy them with my progress. I will give way if any body will show me that I have taken a false step; the way to avoid it is to proceed gradually, and therefore I will confine myself to the appointment of repeal Wardens."

Were you present at the association on the 29th of August, the following day? Yes.

Now will you look at your notes, and say how many of the traversers were present? I have none but Mr. O'Connell on my notes.

Did Mr. O'Connell upon that occasion say anything on that part of the Queen's speech relative to her determination to maintain the union between England and Ireland? He said "It is now my duty"——

Is that the beginning of his speech? It is.

Did you take notes of what occurred at that meeting, and the one before it? I took a full note of various matters that occurred.



Where is that note ? I have not a full note of all that occurred. If you will allow me I will explain.

I would rather you would answer me. Did you take full notes of such portions as you thought material ? Yes.

Have you those notes here ? Yes.

Those are the short hand notes ? Yes.

Mr. Henn (addressing the court)—I respectfully submit that he is not at liberty to use those notes.

Sergeant Warren—Mr Henn, my lord, is under a misconception.

Mr. Henn—Pardou me, I am not.

Mr. Justice Crampton—What is the exact effect of what the witness has said ?

Mr. Henn—He said he did not take full notes of all that passed at that meeting, but only such portions as appeared to him to be material. I submit at he is not to be a judge of materiality, and that he must have the whole proceedings on his notes in order to give evidence on any part.

Sergeant Warren—I will leave it to the court.

Chief Justice—If the witness swears that he gives the substance of what was so spoken, according to the best of his skill and judgment, the court will admit that evidence, otherwise no note could be admissible that the witness was not able to swear was *literatim et verbatim*.

Mr. Henn—We don't require *literatim et verbatim* ; but we require the substance of all that passed, and without the whole he is not entitled to give evidence of any part.

Sergeant Warren—That is certainly the most novel position I ever heard asserted.

Mr. Justice Burton---Suppose that no note had been taken at all, but that a witness came to give evidence of certain things he heard said, would not that be admissible, although he might not recollect every word.

Mr. Justice Crampton---Aye, or every sentence.

Mr. Justice Burton---If the witness was present at a time when particular expressions were made use of by particular persons, surely that would still be evidence.

Mr. Henn---That would be a very different thing, for in that case we might examine his memory ; but if a person goes deputed, as the witness announced he was, by the government, and take notes, he ought to be able to produce them---not garbled extracts. We are entitled to the whole of what had passed at that meeting, and not to part.

Sergeant Warren---The witness has said that he took a full note.

Mr. Henn---He said that he took notes of such portions as he thought material.

Sergeant Warran (to witness)---Have you taken a note, to the best of your skill and judgment, of Mr. O'Connell's speech on that occasion ? I have ; I believe I have the entire ; I can always tell when I have taken a thing consecutively, and when I have taken only the heads of the subject ; the government accepted my services on one condition.

Mr. Henn---Now, don't make a speech. I object, my lord, to this witness going on. He swears he did not take all of the speech.

Sergeant Warren—If I do not mistake, he swore he had taken a full note.

Mr. Henn—Pardon me——

Mr. O'Connell—Let Sergeant Warren ask the question again.

Sergeant Warren (to witness)—Have you taken the entire of that speech ? I know I have, because it's all consecutive.

Mr. Henn—All consecutive!

Witness—I can always tell when I have taken only a branch of a speech.

Witness took up a bundle of notes.

Mr. Henn—Now, tell me are those full notes, or loose abstracts in them ? I cannot depose to a fact of which I know nothing (roars of laughter).

The witness, in reply to Sergeant Warren, said—I have not as yet seen my notes at all, so that there may be a blank in them, or there may not be a blank in them.

Sergeant Warren—Look at your note book, and say if you have taken an entire note of Mr. O'Connell's speech on that occasion or not ? (The witness looked at his note book for some time, and said)—I don't think I have a full note of all that occurred that day ; but I have taken such a note as enables me to give a description of it.

Sergeant Warren—I submit, my lord, we are entitled to have this evidence, and it will be then for the jury to say how they will receive it.

Judge Perrin—Did you observe the last answer the witness has given ? He says he did not take a full note of the speech, but such a note as would enable him to give a description.

Mr. Henn—And I submit that is not evidence, because he cannot say anything except what is in his notes, and he admits he did not take a full note of the speech.

Chief Justice—Let us take down his answer corrected, and see what it is. What is your answer Mr. Ross ? I have taken a full note of all that I considered important and material in that speech ; for instance, I will give you, my lords, an example of the sort of notes I took. When I came to a passage in the speech which I considered material I took it down ; for instance, there is a passage in the speech of Mr. O'Connell, when speaking of the Union, where he states that trade and manufactures had fallen off greatly in consequence of the blighting effects of the Union. I considered that material, and took it down.

Counsel—The falling off of trade and manufacture is rather material certainly for this country.

Judge Crampton—If I understood you correctly your answer is this ; you took a portion, or part, of the speech *verbatim*, and other portions of it you made a summary of ?—Yes, my lord, that's it exactly,

Judge Crampton—Then, you can't give the words of the portion of what I call the summary part of the speech, can you ? I frankly confess I cannot ; nor do I pretend to do so.

Chief Justice—In the summary which you took down, I suppose you put down a catch-word, did you ? I will give an explanation of the manner in which I took the notes—when Mr. O'Connell came to particular passages I took up the words he uttered—for instance, he says here—

'There is another bill of indictment against the government," and he (Mr. O'Connell) also read a letter from Smith O'Brien. He (Mr. O'Connell) said the Welsh committed crimes and they were favoured with an inquiry; the Irish committed no crimes, and were, on that account, denied their rights.

Chief Justice—Well, Sir? Those are what I call heads or the summary of two or three sentences, but I did not take the precise words uttered on the occasion.

Chief Justice---Will you take on yourself to swear, to the best of your skill and judgment, that what you did take down contains the substance of what was spoken on that occasion? It contains the substance of what was spoken, certainly.

Mr. Hen---If I understand you right you have taken a *verbatim* note of what *you* thought to be material in the speech, and a summary of the remainder of the proceedings. Now, will you take on yourself to swear, that in the summary you have taken you have correctly taken the substance of what was said?---Why, the topics (the end of the sentence was lost as the witness spoke so low).

Mr. O'Connell---Raise your voice, Sir; the end of your sentences is always lost, for you let your voice fall so short, and so low, that no person can hear you.

Mr. Henn---I want to know from you, Mr. Ross, if you pretend to swear that you have correctly taken the substance of what Mr. O'Connell said in the discussion of the topics on which he spoke? I have not taken a full note of the substance of the comments he made, but I took down the heads.

Then, you did not take a full note of the comments he made? No, I did not.

Then, can you supply from memory the substance of the comments which he made use of? Yes, I would be enabled to do so on referring to my notes.

Did you not swear, Sir, five minutes ago that you could not give the comments? No, I did not.

You swore you could not depose to the substance of the comments most assuredly? In general I can swear to the substance, but with reference to passages of the comment I do not pretend to give the precise words that were used by Mr. O'Connell.

The Solicitor General said there was a preliminary question to be settled, and on which he was entitled to the judgment of the court, before the discussion went further. If the witness said he could give the substance of the comments, or the language of Mr. O'Connell on that occasion, they had a right to get it from him by reference to his book and memory. If the witness was not able to depose to all that was said on that occasion from beginning to end, it ought not to be contended that he could not state such portions of the speech as he could depose fully, and to give the portion of which he took the substance. It was a new proposition to say so, and one that he ventured to assert was not to be found in any law book. They had a right to get from Mr. Ross any portion of what Mr. O'Connell did say, and then let the gentlemen on the other side get the remainder

from him if they pleased, and not presume that they (the crown) could not give what they really were entitled to, and could give in evidence.

Mr. Henn—Why, strictly speaking, you could not use the notes taken by the witness at all, except to refresh his memory; if there was a written publication given in evidence they might read a portion of it, and it would be then for us to use the remainder of it; but when a witness takes a partial note of proceedings he was not entitled to use it. By the strict rule the witness could examine his notes to refresh his memory, and he must rely on that then.

Judge Crampton—I think you confine your objection to the short summary taken of the speech by the witness, or do you extend it to the words that he is really able to swear to?

Mr. Henn—I object to his entire evidence, unless he has taken a full note of all that passed; and I therefore submit his evidence cannot be received.

Judge Crampton—I understand; that is quite sufficient.

Chief Justice—We will admit the evidence, considering that we are acting in conformity with the well-known principles of the law.

Mr. Warren—Proceed and state as fully as you can, from your notes, the speech of Mr. O'Connell; and when you come to the portion which you have not taken fully, or where your notes are imperfect, state so. The witness proceeded to read the speech of Mr. O'Connell for a few minutes, and then, addressing the court, said, "Now my lords, I have come to the point at which my notes are not so full, shall I read it?"

Mr. Justice Crampton—Do you object, Mr. Henn?

Mr. Henn—If the witness can give the substance and meaning, we do not, my lord. We call upon him to go on.

The witness then proceeded to read, "The Union was not a compact or agreement. It is not valid. But it is said that although it was carried by the foulest and most atrocious means that it has worked well for Ireland. I deny that. From the declaration of the independence in the year 1782, up to the year 1799, there never was a country progressed more rapidly, and I have the authority of Lord Clare to that effect. Before emancipation no man spoke of Repeal but myself; I always looked upon the relief bill only as the means to an end, but a step to repeal; and lest that should happen which has since happened, namely, that I should be accused of suppressing from the people of England my intention ultimately to seek for it; I always declared my determination. In my address to the electors of Clare, in the year 1828, a contest which was of such importance in effecting Catholic emancipation, I distinctly put it forward as an inducement to the electors to vote for me, and I promised that if I obtained a seat in parliament I would bring the measure before the house. I have now, for the last time, vindicated myself from the charge of concealing my intention, and I will read an extract from Mr. O'Driscoll's book, dedicated to the Marquis of Landsdown." The witness then said he had not taken a note of the extract.

Mr. Henn—Are you able, from memory, to give the substance of that extract? I am not.

(Witness then proceeded to read the remainder of Mr. O'Connell's speech, where he stated that from the year 1803 to 1828 the British

constitution was only in existence in Ireland during the interval of five years, and stated Mr. O'Connell referred to various acts of parliament passed during that time.)

Mr. Henn---Are you able from memory to supply the substance of what was said? No.

I understood you to say you could? Mr. O'Connell quoted several acts.

Sergeant Warren, for the crown, submitted these interruptions ought not, to be allowed.

Witness proceeded to read the portion of Mr. O'Connell's speech where he relied on the vast falling off in the trade of Ireland. "There were more cattle sold at Ballinasloe before the Union than since. There was not one head of cattle exported then for every 800 exported now. The Irish people consumed them, and did not export food. He took the trouble to look over Lord Brougham's speeches, and Mr. O'Connell referred to several passages. Also the report of the Poor Law Commissioners; number of destitute poor in Ireland; comparative number of Protestant and Roman Catholics; that the Welch, who committed crime, were much better treated than the Irish, who committed none." He proceeded to give a summary of the conduct of ministers during the last session of parliament, and Mr. O'Connell concluded by a motion for a committee to prepare an address to be placed before the Queen and all her subjects.

Mr. Warren---Was the motion agreed to? Yes.

Have you taken a memorandum of any approbation or disapprobation of any part of that speech? No; I was present at a meeting of the association on the 4th of September; Mr. O'Connell, Mr. Ray, Mr. John O'Connell, and Mr. Steele, were present; Mr. O'Connell spoke at the meeting.

The witness then commenced reading his note of what Mr. O'Connell spoke on that occasion. He commenced by referring to the meeting which was to take place at Clontarf on the 8th of October, and to the prospects of success for Repeal. He then referred to the Queen's speech, and the effect which it produced on the Irish mind. The ministers dared not to make that speech to the end of the session, when it could be exposed. A weak and miserable ministry was incapable of resorting to any other advice. He congratulated the people on the increase of the Repeal feeling among them, and also on the symptoms that were apparent of a better temper among the high flying Orangemen of the North." He mentioned the surprise he felt at seeing a sensible letter with the name of Londonderry attached to it. He denied that the speech from the throne was the personal speech of the Sovereign; it was not a personal speech at all; it was no more the Queen's speech than it was his (Mr. O'C's.) and he was not very likely to pronounce a speech of that kind. The suggestion contained in that speech was grossly disloyal; it was disloyal to represent the Queen to the people of Ireland as hostile to their liberty. He then called attention to the letter in the *Morning Chronicle*, signed "One who Whistled at the Plough," from which he read extracts. He pointed out the injury done to the Reform cause in England by the physical force doctrine of the Chartists, and warned the people strongly against violence of any kind. He said the resolution for the non-consumption of exciseable articles

was not yet proposed; it was saved for a great emergency. He should shrink from nothing. He announced his intention of attending meetings at Loughrea and Connemara in the following week, where he would defy the spies and informers of England to produce confusion. He then proceeded to detail his plan of the management of the franchises of the Irish parliament. He would arrange them in such a manner that if the Queen choose to issue writs for the assembling of the Irish parliament in six weeks, they might be directed at once to the respective boroughs. He had taken the population of the reform bill as the basis of his plan. He (Mr. O'Connell) was anxious that men of wealth and station should join them (the repealers). The time was come when Ireland could no longer be governed to or by a faction. England had given them emancipation in 1829, but not equality. With respect to the law of landlord and tenant, it had been said by Chief Justice Pennefather that the nature and intent of the act of parliament were only in favour of the landlord to enforce his rights. The law had never the interest of the tenant in contemplation at all. These were the words of a Tory Lord Chief Justice" (laughter throughout the court).

Cross-examination resumed by Mr. Sergeant Warren.

Did you attend the meeting at Loughrea? Yes.

State on what day that meeting took place. On September the 10th.

Who were present at the meeting? Mr. O'Connell, Mr. Steele, Dr. Gray and Mr. Barrett.

Have you a note of Mr. O'Connell's speech at that meeting? I have.

Read it.

Mr. Henn, traverser's counsel—Is this a note you took yourself, and not a copy of another's report? Yes.

Mr. Sergeant Warren—Read it? Mr. O'Connell said, "he regretted that the state of the weather would compel him to narrow his expressions of gratitude to the smallest space. They all knew there was high authority for saying that it rained on the just as well as the unjust. He would wish to give before them the outpourings of his heart at the splendid spectacle of that day. Connaght was doing well. He had around him that day enough of physical force to achieve the greatest revolution. But let them assemble peaceably and Ireland would be again a nation.

Do you form an estimate of the numbers that attended the Loughrea meeting? Yes, I did.

How many persons, or about how many were present, do you think? I would say about twelve thousand; I was present at a public dinner on the evening of the same day; if I said that Mr. Barrett was at the meeting, I said so inadvertently, and I took the first opportunity to correct my error; Mr. Barrett was at the dinner.

State the names of each of the traversers who were at the dinner? Mr. O'Connell was there, and so too were Mr. Steele, Mr. Barrett, and Dr. Gray; I heard Mr. O'Connell speak at the dinner, and have a note of his speech on that occasion.

Are you acquainted with the personal appearance of the traversers? Yes, I am.

Point them out, if you please.

The witness turned round, and, after some hesitation, said; "I only see Mr. O'Connell, Dr. Gray, Mr. Ray. and the Rev. Mr. Tierney."

Look round and try if you can identify any more of them? Oh! yes, I see Mr. John O'Connell.

Sergeant Warren---The traversers ought to be together; this difficulty on the part of the witness arises, my lord, from the circumstance of the traversers not being all here.

Mr. Whiteside---I am rather inclined to think it results from the circumstance of their not being all *there!* (laughter). (The learned counsel alluded to Sergeant Warren).

Court---Do the counsel for the traversers admit that Mr. Duffy was at the Loughrea dinner?

Mr. Whiteside---I do not admit that Mr. Duffy was at any meeting, except, perhaps, an association meeting.

Mr. M'Donogh---I admit that Mr. Barrett was at the dinner, but not at the meeting.

Mr. O'Connell---The witness did not say he saw Barrett at the meeting; but he said he was at the dinner.

Mr. Fitzgibbon---Unless there be an attempt to dispute identity we will readily concede the fact of any of the traversers having been at any meeting, which, in point of fact, they did really attend.

Sergeant Warren---You said you had a note of Mr. O'Connell's speech at the dinner at Loughrea, pray be so good as to read it.

(The witness here read from his note-book his note of Mr. O'Connell's speech on the occasion in question. The speech commenced with a denunciation of the Tories for having put into the mouth of the Sovereign a speech, in the sentiments of which she did not herself concur, for the paltry purpose of keeping themselves another year in office. He expressed a hope that what he uttered might reach the ears of her Majesty, and that she would learn that from the accession of her family to the throne, up to the present day, justice had never been done to this country).

Witness---Then, my lords, Mr. O'Connell proceeded to denounce George the First, George the Second, George the Third, and George the Fourth; I have only a topical note of the proceedings just there, and, consequently, am unable to give his express words; I only know that he denounced them.

Sergeant Warren---Go on with the reading of your notes of Mr. O'Connell's speech.

The witness complied, and read his notes, the substance of which was, that the Irish people had ever been distinguished for their loyalty and allegiance to their Sovereign, and that they would never cease to be so distinguished, for their loyalty was—

"True as the dial to the sun,  
Although it be not shone upon."

That the government had commenced by threatening civil war upon the Repealers, but that the people had not crouched to that threat, and that the menace, consequently, would not be repeated: that the government had spent a greater portion of the session in forging an arms bill; and that he

(Mr. O'Connell) would get his arms branded in perpetual proof of the insolence and tyranny of the Saxon ; that the Irish people, if they were unanimous and did not violate any law, must succeed in obtaining their liberties ; and that they ought to humble themselves before Providence for the purpose of imploring that the virtue of perseverance might be vouchsafed to them, and that the wisdom might be granted to their leaders to conduct them in the paths of peace and tranquillity into the temple of genuine and rational liberty, which was founded upon religion and morality. " I tell the *Times* that those meetings are the safety-valves through which the boiling wrongs of the national soul" (witness remarks) " I have lost the next word after soul, but I suppose it was evaporate" ) " into the certainty of success ; they raise in them (the people) a divine hope that the days of the woes of Ireland will not last for ever." The witness continued at length to read the speech of Mr. O'Connell in nearly the same terms as previously published, until he came to the following passage :—" Ireland wants no monarchy."

Mr. O'Connell, who was sitting, as, on the previous day, at the table, immediately under the witness's chair, here said, with the appearance of much astonishment. " I would make Mr. O'Connell's meaning more clear if I were to write out another translation of what he said. Mr. O'Connell did not mean to say that Ireland required no monarch, for he says afterwards—" To the Sovereign we are attached by the most dutiful allegiance."

This part of the witness's evidence and explanation were very confused, and rather in an under tone, so as to render it difficult in the gallery to catch his precise words.

Mr. Sergeant Warran—Turn to the meeting at the Corn Exchange on the 13th of September ; look at your notes of that day's proceedings, and say which of the traversers were there ? Am I to give you an answer founded on my own observation, or from what I find on my notes ?

Mr. Sergeant Warren—You are not bound to omit any names, if, from your own knowledge, you can speak positively of persons having been present, although you do not find their name on your notes ? Mr. O'Connell was there ; his name is the only name on my notes ; but I know Mr John O'Connell and Mr. Ray were there.

Sergeant Warren—Refer to Mr. O'Connell's speech in presenting the draft of the address to the fellow-subjects of the crown in every part of the world. The witness then proceeded to read the speech ; after which he said he had read several disjointed passages, among which were the following :—

" They say that the English judges are better than ours ; I deny it."  
 " Such a judgment as that of the English judges, respecting the Presbyterian marriages, never was given on this side of a hot place" (laughter.)

When that speech was concluded what was done ?

Mr. O'Connell moved the adoption of an address to the inhabitants of all the countries subject to the British crown, and that that address be placarded wherever the British crown had power.

You mentioned yesterday that you had received a manifold copy of that address ? I did.

Now read it.

The witness took up the manifold copy and had read about six lines of it,



when he was desired to read the printed copy of the address, as it would be more easily perused.

When the witness had read as far as the fifth article of the address, he appeared to be very weak. when

The Chief Justice said, this gentleman seems very much exhausted.

Witness---I will be better in a few moments, my lord.

— Judge Crampton---Perhaps it would be better for the clerk of the crown to finish the reading of the address.

The address was then handed to the clerk of the crown, who concluded the reading of the document.

Here the court adjourned.

The direct examination of the witness was resumed.

To Sergeant Warren---Was at the Clifden meeting; it took place on the 17th of September! some of the traversers (Mr. O'Connell and Mr. Steele) were present; does not remember any one else.

A Juror---Only the two?

Witness---Only the two; remembers Mr. Dillon Browne was there; heard him speak; reads his speech from his notes; he said the men of Connemara had acted bravely in rallying at this meeting; that if not so numerous in other places they were few, but brave. He wished Peel and Wellington were there to see their mountain cavalry; and he would be glad to know if the heavy dragoons could follow them through the mountains. They assembled that day to show their strength, not to violate the law; they were resolved not to sully their conscience at the will of any despot. What he had said of Mr. Darcy was wafted on the wings of the press to the ears of that gentleman

Mr. Warren---Did you take a note of what Mr. O'Connell said on that occasion? Yes.

Will you read it? The witness then commenced reading Mr. O'Connell's speech at the meeting. He commenced by saying, that the present was the most transcendent meeting he had ever seen—that he was now making an experiment, and he wanted to know whether they were not as brave as the rest of Ireland—whether Connaught was not as honest and as faithful as the other three provinces, (cries of we are, we are.) Whether they did not hate Saxon tyranny as much as any other portion (cries of we do more so?) All he wanted was Ireland for the Irish, as France for the French, England for the English, and Scotland for the Scotch. The Irish were as brave, and more moral, than any other nation in the world. The battle of Ireland was to be a peaceable battle, and he would keep them out of danger. They should proceed in a constitutional way, but if he wanted them they would come again. He wanted that every person should pay his own clergyman; tho Protestants could then pay what they liked for their own church, and the more they paid the better. The struggle for emancipation was one for the advantage of the rich; but repeal would bring physical prosperity to the people. They were to use no violence. He came to teach them another lesson from that—that peace, order, and obedience to the law, were the means by which they would wrest everything from their enemies. If they had the repeal prosperity would flow in upon them, and would they not give a shilling a year for this object? Every serjeant paid a shilling to each recruit, to enlist and entrap him;

but he did not want to entrap them, but told them Ireland should be for the Irish. He again repeated that no violence was to be used. His motto was—"Whoever committed a crime gave strength to the enemy." He could not be doing anything that was bad when he had the support and countenance of the sainted clergy of the people, and their venerated archbishops. When they found him possessed of such support, they did say that he must be doing some good. Then came the question—"The nations have fallen, &c.

Mr. Sergeant Warren—Were you at the dinner on that day. I was.

State to the jury who were the traversers present at that dinner? Mr. O'Connell, Mr. J. O'Connell, Dr. Gray, and Mr. Barrett.

Look at your notes? Oh, no, J. O'Connell was not present; I was thinking of Mullaghmast dinner, when Mr. J. O'Connell was in the chair.

Look to your notes of the Clifden meeting? There were present at the Clifden meeting Mr. O'Connell, Mr. Steele, and Dr. Gray; I don't remember that there were any other of the traversers.

By a Juror—You said that Mr. Barrett was present? I was confounding this meeting with that of Mullaghmast; the only persons present at this (the Clifden) meeting were, Mr. O'Connell, Dr. Gray, and Mr. Steele. There were also present Mr. Daniel O'Connell, jun., and ——— French.

Have you a note of Dr. Gray's speech on that occasion? Yes. Dr. Gray in answer to the toast said—

Have you a note of the toast preceding that? No; I have no note of the loyal toasts. Dr. Gray, in answer to the toast of the people, said "That formerly the aristocracy tyrannized over the people, but the people were now showing the bearing of men determined to be free—that he was much struck with the difference in the bearing of the people then, and that exhibited by them some two years before when he had visited that place. Let their conduct be firm, and let them flinch before no tyrant landlord, and where was the man that would dare to eject them from their holdings because they were Repealers. Let them observe peace, order, and tranquillity, and they would finally triumph."

Mr. Sergeant Warren—Have you a note of Mr. O'Connell's speech on that occasion? Yes. Read it.

The witness here proceeded to read the speech, which commenced with an expression of delight on the part of Mr. O'Connell at the majestic sight which was presented on that occasion. He said that Leinster, part of Ulster and Munster had done their duty, and now Connaught was at its post. There was then (said the witness) a sentence about virtue and religious sentiment, which I was not able to catch. The speech then went on to refer to the prosperity of Ireland under a domestic legislature. He (Mr. O'Connell) might be asked why, when having so much physical force around him, he did not make use of it? He replied that he would use it, but not abuse it. Its use was legal and moral combination. These are then, said the witness, words "poetical imagery" (laughter); but I have not the whole sentence. The words are not mine but Mr. O'Connell's. The speech went on to express Mr. O'Connell's delight at seeing the thousands, and hundred of thousands, that poured out of every valley to the meeting. They would use no violence; they would reserve their strength till they were attacked. But the government would not attack

them; the English government said they would not attack them. To that statement he would reply, "Thank you for nothing," says the gallipot (laughter); they could not catch an old bird with chaff. [The witness here stated that a sentence followed which he was unable to catch, and then proceeded]. Mr. O'Connell then alluded to the reports that had appeared in the newspapers of the first meeting of the arbitration court, Doctor Gray in the chair, and the announcement that they would meet every Friday after. He stated his conviction that they would work well, and hoped that hereafter he should be able to apply the principle on a more extensive scale, so that before long he should deprive the principal courts of half their business. He would play a game that should checkmate the government in time. It might be necessary to go slowly, and to ask the people of Ireland to continue their confidence in him; but it was better to go slow and sure, than fast and uncertain. In allusion to some opinions that had been expressed in the newspapers, he said he never took advice on matters of law from the newspapers; he relied on them for matters of fact only. No country in the world had an abler or more honest press than Ireland; and it was a great proof that they were in the right road, when the found so much talent in the press enlisted on their side; but he could not take the law from them. He had more projects in his head for checkmating the government, but he should not speak of them. He said further that the English government had done nothing to conciliate Ireland. They had offered nothing as a remedy of their grievances but a miserable compromise, giving them what children called the smallest half. At present his monster meetings were almost done; there were not more than seven or eight to be held. He remarked on the conduct of the people at those meetings which had been held; and the extract concluded by an eulogium of the moral and religious character of the people of Ireland.

The Solicitor General---Did you make any calculation on the number of persons at the meeting at Clifden? I did.

What number attended? Five or six thousand.

Were you present at the meeting of the association at the Corn Exchange on the 27th September? I was.

Which of the traversers did you see there? Allow me to look at my notes; I never was a day without seeing some of them.

I only ask you as to that particular day. Dr. Gray, Mr. O'Connell, and Mr. Ray.

Did Dr. Gray make any remarks on that occasion? He did.

Have you a copy of that report read by him, or do you know what was the subject of it? It was with respect to the Arbitration Courts,

Is there among these documents (handing them in) a copy of the report read by Dr. Gray? I have not a copy of that report.

Were you furnished with copies of any documents on that occasion connected with the Arbitration Courts? Yes.

Have the goodness to read them? Witness then read one of the documents. It was an unfilled up notice that an Arbitration Court had been appointed for the district of ———, and that Mr. ———, had been appointed to furnish every information that might be required. It was signed Thomas Ray, and printed by J. Browne, 36, Nassau-street.

Have you any other document connected with the Arbitration Courts ? Yes ; but not on that day.

Other documents were handed to witness, and from them he selected one which was read by the officer of the court. It was headed by a harp and crown, and ran thus :—" These presents are to testify that the Loyal National Repeal Association has perfect reliance on the ability of Mr. \_\_\_\_\_, as arbitrator, to dispose of, adjudicate, and settle, any disputes that may arise in the said district of \_\_\_\_\_."

Sergeant Warren—Have you any other documents respecting Arbitration Courts, which you received that same day ? At the meeting of the Repeal Association which was held on the 16th of October, I got a document which purports to be a copy of the rules and regulations to be observed by arbitrators, and also by persons in various districts of the country who wish to submit their disputes to arbitrators.

Sergeant Warren—Read it.

The witness, who appeared to be very much exhausted, handed the document to the clerk of the crown, who read it. It was the rules to be observed by arbitrators in districts the people whereof may choose to submit their disputes to arbitration, and was signed, by order, "JOHN GRAY, Chairman of the Arbitration Committee, Loyal National Repeal Association."

Sergeant Warren—Look at your notes and see have you a memorandum of the appointment of any arbitrators, on the 27th of September, for the districts of Kingstown, Dundrum, or Blackrock. I Remember that Dr. Gray made a speech on that occasion in reference to the appointment of arbitrators.

Have you a note of that speech ? Yes, I have.

Read it. The witness read from his manuscripts a note of a speech delivered by Dr. Gray, on the occasion in question. The substance of the speech was, that he (Dr. Gray) as chairman of the Arbitration Committee, was commissioned to inform the association that the committee had under their consideration the form of a testimonial in favour of such persons as they thought fit to recommend to the office of arbitrators, and he then proceeded to read the document alluded to, a copy of which the witness produced.

Did any appointment of arbitration take place that day ? I have a memorandum on my notes to the effect that several gentlemen were proposed as arbitrators, and agreed to ; I know that Mr. Nugent, of Kingstown, was appointed, and returned thanks, and Dr. Gray moved that the chairman should be recommended as an arbitrator for Dundrum, whereupon the chairman returned thanks ; I was present at the Mullagh-mast meeting ; I took a note of the proceedings of that meeting, which I hold in my hand.

Sergeant Warren said there were certain extracts from that speech, as reported by the witness, which he wished to have read out. He wished to know whether the counsel for the traversers had any objection to having certain extracts read from the speech, or did they mean to insist as they had a right to do, that the entire speech should be read over again. It would be in the recollection of the court that the speech had already been read in its entirety by Mr. Hughes.

Mr. Fitzgibbon—If your two witnesses agree, Sergeant Warren, in their reports of this speech, I really cannot see the use of having it read, or any part of it, over again. But if, on the other hand, you want now to give a different account of the speech from that which has already been deposed to, I cannot see how you can do so, for surely you can have no right to put one of your witnesses against the other. So which horn of the dilemma will you select? (laughter).

I don't want any horn of a dilemma. I merely wish to have certain extracts read from the witness's report of Mr. O'Connell's speech, and I ask you whether you require to have the whole speech read, as you are entitled?

We don't require anything. Take your own course.

Mr. Henn---If the two extracts correspond *in omnibus*, there is no necessity for reading the second, but if there be a discrepancy, I think it very essential for us that the whole of the witness's notes should be read.

Sergeant Warren---I believe that the two reports do correspond, for I trust to the reporters; but I am unable to say positively, for I have not examined both reports.

We have no opportunity whatever of knowing whether the reports correspond.

Judge Crampton---You have only to state that you wish the whole speech read, Mr. Henn.

Mr. Sergeant Warren---State from your notes what Mr. O'Connell said at Mullaghmast? There was considerable confusion at that meeting which inconvenienced me, and prevented my taking some of the first of Mr. O'Connell's observations. I had not an opportunity of taking his first words, but he was speaking of Tara; I put down the word Tara first, and then I go on. The witness here read Mr. O'Connell's speech, which agreed as nearly as possible with Mr. Hughes's version of it, and very slightly differed from the report as originally published. Whenever he missed taking down a word, he said, "I lost the next word." He read on until he came to the next passage, "Peel has 500 colours in his flag, and not one of them permanent; to-day it is Orange, to-morrow green; and next day it is neither one or the other. One of the Scotch historians, Allison, says that if Wellington got well out of the battle of Waterloo, it was by the British troops, and by their unconquerable—" I have lost the remaining words of that sentence. He then came to a quotation from a song, which he introduced---

"At famed Waterloo  
Old Wellington would look blue  
Only Paddy was there too."

And I have lost the rest (loud laughter). He said further about the Duke of Wellington; "They had no place for him in the cabinet, nor no duty for him to perform except that of a sort of inspector of Anti-Repeal Wardens. I selected this Rath for obvious reasons to hold this meeting, for it was the spot in which English treachery and Irish treachery too, committed a massacre unequalled in the annals of history, except by the murder of the Mamelukes.

When the witness had done reading the speech,

Sergeant Warren asked him if he was at the dinner in Mullaghmast?

I was.

I suppose you took a note of Mr. O'Connell's speech at the dinner?

I did.

Can you recollect how many of the traversers were present at Mullaghmast? There were present Mr. O'Connell, Mr. Ray, Mr. Steele, and Dr. Gray.

Now, at the dinner, who did you see? I saw Mr. O'Connell, Mr. John O'Connell, Dr. Gray, Mr. Steele, Mr. Ray, and Mr. Barrett.

Did you take a note of Mr. O'Connell's speech upon the latter occasion?

Yes.

Read it? I will. I have also notes of Mr. Barrett's speech on the same occasion, but my notes of his speech are very incomplete.

Mr. M'Donough--Your lordships, perhaps, did not hear what the witness said to Sergeant Warren. He stated that he has a very incomplete note of Mr. Barrett's speech. Now, we had from Mr. Hughes, yesterday, a very perfect note of that speech; and I take the liberty, on the part of Mr. Barrett, to apply to the court not to receive the incomplete note. I do not think it fair.

Sergeant Warren (to witness)--Have you a complete note of any part of Mr. Barrett's speech? If you have not, I won't ask you a word about it? Witness (having looked over his notes)--No, Sir.

I should be sorry to ask you to give any statement on it. You said you had a complete note of O'Connell's speech at the dinner; will you read it?

The witness went on to read the speech made by Mr. O'Connell which took place at the Mullaghmast dinner. He (Mr. O'Connell) asked on that occasion was there any Repealer brought before a bench charged with any crime? Was there any of them brought before a magistrate for a breach of the peace? No, not one. They (the Irish people) had made a moral demonstration which no country on the face of the earth was capable of producing save Ireland. They (the Irish) had met an immense numbers without the slightest violation of the laws of God or man, and yet that country and such a people were unslaved." Mr. O'Connell then spoke something about the cold water cure, but I did not catch it (laughter). Mr. O'Connell continued, and said the only way to obtain the Repeal of the Union was by the peaceful workings of the Irish people themselves; they would not commit a breach of the peace; they would not commit a violation of the law. He went on to read that portion of the speech relative to the Duke of Wellington, in which it was stated that if a man happened to be born in a stable it did not make him a horse (loud laughter).

Witness continued reading Mr. O'Connell's speech for some time longer and the direct examination being concluded, he was

CROSS-EXAMINED BY J. HENN, ESQ. Q.C.

Will you state what time you came to Ireland first? The first time I came was in July, 1843; I was never here before.

Were you much frightened at the idea of coming over? Yes, I was frightened a little.

I suppose you found the alarm false? Why, yes.

I suppose you were paid fairly for coming over? Yes, I got 350*l*.

Altogether do you mean? I got 50*l*. for the Donnybrook, and 350*l*. for attending all the other meetings, and up to the next session of parliament.

You have found it a profitable speculation then? Yes, I have.

Have you ever made as much money in as short a time before? No. I have not; I have sometimes made very well, sometimes not.

Have you ever taken the benefit of the insolvent act? I have once.

Only once! when was that? I was arrested on the 25th of June, and my petition was heard on the 25th of July, I think; it was some time before I came over.

You had a communication with a person high in office? Yes.

Shortly before you came from England, were you in connection with any newspaper? Yes, the *Morning Chronicle*.

How long in connection with that paper? About three years.

Does it support the present government? No.

Were you in connexion with any other paper? Not at that time.

Were you at any other time? Yes; the *Times*.

When did your connexion with the *Times* cease? In 1836.

When with the *Morning Chronicle*? After the last session of parliament.

Since then have you been engaged by any paper? Yes: by the *Standard*.

Then, when you came here in July were you not connected with the *Morning Chronicle*? Yes; I wish to state the reasons why I came.

You have already given 350 substantial ones for coming (laughter).

If I had not come as a newspaper reporter I would not come for anything.

Would you not come forward for 100,000*l*.? Oh! I might (laughter); or 75,000*l*.

Why, would it be so hard to tempt you? I was led to apprehend some damage.

Well, now that you have come over, would you entertain the same apprehension? Now that I have seen how things are carried on, I would not have the same apprehension.

Having been deputed by some one high in office, and while in the employment of the *Morning Chronicle*, you came to Ireland? Yes.

Well, to whom did you apply on your arrival? You came here to report the proceedings at the meeting held at Donnybrook—you could not report unless you had a place on the platform to hear and see, tell me to whom did you apply? I do not know.

How did you get to the meeting? I went there with a gentleman connected with the *Dublin Evening Post*; he being well known did everything for me, and got me a place on the platform.

You said when Mr. O'Connell arrived there was great confusion? Yes.

That was created by persons coming on the platform? It was.

There was no breach of the peace—no alarm on your part? No.

You would not give 50,000*l.* to get away from it (laughter); was not all quiet and decorous? It was.

The report of what occurred at Donnybrook you transcribed from the notes you took? Yes.

Have you that paper? Yes.

Now, having come over in a double capacity, did you furnish a report to the government and to the *Morning Chronicle*? Yes.

To the Chief Justice—I assisted in preparing a report for the *Morning Chronicle*.

Mr. Henn—Was that on the same day? Yes, it was on Monday

Did you on that day copy the short-hand notes you took to furnish your report to the *Chronicle*?

Oh, no, I sent off by post that night, and it was not more than thirty lines; I only wrote a portion of Mr. O'Connell's speech, without referring to my notes at all.

When did you write out the report for government? On the next day.

Is it a full report? As full as possible, except in those portions to which I have referred.

I understand you took a verbatim report of what you considered material. Yes.

You cannot be always precisely verbal? Oh, no, and the change of a word might often make a very material difference in the sense of a sentence.

But of those parts you did not consider material you did not take a note. No.

You took what you call topical notes of what took place? Yes.

But you do not pretend to say that you even gave the substance of what was said in those special notes?

I do not understand the latter portion of your question. I took notes in such a way as not to misrepresent the sense of the speaker upon those points on which he spoke; but I do not pretend to have given the words, or anything like them.

Do you pretend to say you have given even the substance of the observations made on the various topics? I do not know, for the expression "substance" extends.

Mr. Henn—Why substance is substance, and it is so plain a word that it could not be made plainer (laughter).

Did you give the substance? I gave the substance or meaning of the observations.

Of all observations? Oh, no.

What then? The discussion of these topics might have occupied twenty sentences; but those twenty sentences might contain but one idea, and I only put down the idea [laughter].

What are topical notes? The substance of the observations made on the various topics alluded to.

Now, Mr. Ross, having escaped from the savages [loud laughter], and got back to London, you got courage to come back again? I did not come back again.

Why, you were only at Donnybrook first? Oh, yes, I came back.



Were you not under the same alarm then, as at first?---Yes, I was; I had experience of only one meeting there; but it was not in the neighbourhood of Dublin that I was afraid; I entertained apprehensions at first.

Were you then in the employment of the *Chronicle*?---No.

Did you come as a reporter for government? No, I came as a reporter for the *Standard*.

Not on the part of the government? Yes, on the part of the government also.

Who recommended you to the *Standard*? Myself.

Were you known before? Every person connected with the press knew me in London.

You knew Mr. Bond Hughes, then? No, I have not the pleasure of knowing Mr. Hughes.

He knows you? Only by reputation.

Did you see him here? Yes.

Your reputation recommended you to the *Standard*? I did not say it in that way, but I believe it was my reputation that recommended me.

Having been thus recommended to the *Standard* you came here on the part of the *Standard* and the government, and with that intention you attended several meetings of the association? I did.

Now, you will tell me how you got access to the association. Was it your reputation introduced you there? No, it was either the gentleman who went with me to Donnybrook, or another gentleman from the same establishment.

Did you tell him you were connected with the *Standard*? Yes.

And with the government? No, I did not want to tell him that I was connected with the government.

You saw Mr. Hughes; did he know you personally? Yes; he was, I am told, in my company about seven years ago at an entertainment given to a gentleman.

Did you send reports to the *Chronicle*? I sent reports of three public meetings to the *Chronicle*.

When you came here, did you come from the *Standard*, and *Chronicle*, and the government? Yes.

Did you send reports to the *Standard*, *Chronicle*, and government? I did to the *Standard* and *Chronicle*, but not to the government. I wrote the report out here.

Did you not transmit reports to London? Yes, to the *Standard* and *Chronicle*.

The *Standard* is a government paper? I never disclosed the fact that I was here on the part of the government until last night.

May be you stated that you had come here for the *Chronicle* alone? Oh! is it I? I never stated a falsehood in my life, and it is too late now to begin; I did not state at all that I came here on the part of the government; there is one with whom I am connected---I mean my wife, whose wishes and feelings I always consult (much laughter among the ladies in the gallery, and the persons in the body of the court), and she was averse to my coming here as a government reporter. I had my own feelings, too, on the matter. A young artist who had been asked to come

here to exhibit a celebrated picture, had refused to do so, and when a gentleman of education entertained apprehensions on the matter, some allowance must be made for my having a reluctance to state why I came.

Well, then, I take it for granted that you would not undertake the business for 50,000*l.*? You did not communicate the matter to the *Morning Chronicle*? No.

Now, Mr. Ross, you attended the Loughrea, Clifden, and Mullaghmast meetings. Did you send reports of the proceedings at each to the *Chronicle*? I did not send the report of the Mullaghmast meeting to the *Chronicle*.

You are acquainted with the person who represented the *Chronicle* there? Yes.

Had you any communication with him at that meeting? Yes, he was close to me.

Oh! then you know this gentleman? Yes.

You are quite sure you did not send that meeting to the *Chronicle*? Yes.

Did the *Chronicle* pay you for that meeting? The *Chronicle* paid me only for what I sent.

Did you charge them anything for the Mullaghmast meeting. Yes, I did (indication of surprise in the court).

How much did you charge for sending them nothing. Oh, they got the Mullaghmast meeting.

That gentleman then did the whole of the meeting, but you charged for it and got the money. No.

What! Allow me to explain (witness, turning to the bench, said)---I regret I must state those circumstances, but I am compelled to explain. This gentleman wanted some money to enable him to go to those meetings, in order to send reports to London; I advanced him money on several occasions for that purpose; on this occasion, being run a little short, I wanted some money myself, and he could get no supply of money from London, and he therefore proposed that the Mullaghmast meeting should be sent over in my name, as I should be sure to get paid for it.

Did you get the money from the *Chronicle* for that meeting I did, but I gave it to him.

Having attended at those monster meetings here, may I ask you whether you have ever, in the course of your duties in England, attended at any of the great public meetings there. Not at many, but at some of them.

At any of the Anti-Corn-Law League meetings? No; I never reported any of them.

Don't you think it very wrong that a reporter should be called upon to give evidence? No, certainly not. I think a reporter should obey the law of a country, and I never heard that questioned until I heard it by some gentlemen here. 'Tis preposterous (laughter.)

You were not always merely a reporter? No.

You were, I believe, an editor? I was.

Were you the editor of a newspaper called the *Carlisle Patriot*? I was. About what time? In the years 1837, 1838, and 1839.

What were the politics of that paper? Conservative.

Are those your own politics? They are.

Were they always so ? Not always.

For the last ten years ? The title has not existed for ten years.

But the principles might ? True enough.

What were you before you become a Conservative ? Why, if I might define it——

I only ask you to name it ? Why I might answer that——

“ In moderation placing all my glory,

Tory would call me Whig—and Whig would call me Tory !”

I have been complained of (said the witness) by some of my own family, who are strong Liberals, for being a rank Tory ; and I have been condemned by some of my Tory friends for being too much of a Liberal (loud laughter.

And, perhaps, both were right ? Perhaps so ; I can only arrive at a mean by the assertion of opposites (loud laughter )

I am glad you came over to Ireland to enlighten us ! When you edited the Carlisle paper you had no objection to tell me what denomination of politics you belonged to ? The title existed at the time, designating a body of men who entertained opinions in reference to public affairs, in which, generally, I concurred with them. If you ask me what I was before that, I should say, a moderate Whig before the reform bill passed.

Never had a touch of the Radical about you ? Never ; I had the same feeling as all young men in favour of Liberal institutions, and I trust I shall always entertain it.

Mr. Henn—And I hope you may inspire the government with a similar feeling.

Witness—I don't think it is at all necessary.

Were any of the members of the present government connected with that Carlisle paper ? Not that I know of.

You don't know who the proprietors were while you were editor ? No, not one of them (after a pause), except from their own statements.

Do you remember a prosecution of a person named Taylor at Carlisle—Dr. Taylor—and giving evidence on that occasion ? No, I do not,

You do not. Is that your answer ? Why, if I gave any evidence, or answered any questions, it must have been about some very unimportant matter, for I don't recollect it.

Very likely, ; I suppose it was a topical note you took of it as you didn't consider it material I I took no notes at all. It was just an examination before magistrates.

I see your recollection is reviving : now, I again ask you were you not examined before the magistrates I I don't recollect that I was.

Didn't you protest, upon the high authority of a reporter, that you should not be called upon to give evidence I Witness, apparently astonished—Oh, certainly not.

Are you sure of that ? Sure of it ! I never did any such thing in my life.

Did you take any active part at elections in England ?—No. Not at all ? No.

Did you always confine yourself to the mere drudgery of reporting?  
When?

During the course of your connexion with the press?---No; I have occasionally written articles.

Did you ever write an election squib? Not that I am aware; if you will show anything of the kind I'll tell you immediately.

Do you remember an election at Carlisle? Yes.

Do you remember a Mr. Wentworth standing as a candidate? No.

You do not? I do not.

Mr. Henn (handing up an election placard to witness)---Do you remember that placard? No.

Do you remember the name of the candidate whose name is to it? No, I do not. I never saw or heard his name before.

Were you connected with the press in 1841? Yes; I was connected with the London press.

And do you tell me that you, who were connected with a London newspaper in 1841, did not hear of a contested election in Carlisle at that period? I tell you again I never heard of the names before.

Was there a contested election in Carlisle in 1841? I really do not remember. If there was an election, it made no impression on my mind.

And you say you don't know who the candidate was? I do not.

Do you remember any election in Carlisle? Yes; there was an election in '39 or '40---it was an election for the county.

Look to this placard, it is addressed to the working classes of Carlisle? I have looked at it, but never saw it until now. I may have seen it on the walls. Let me look at the date.

(Witness then looked at the date, and said he mistook the date, he never saw that placard before.)

Mr. Henn handed him another placard---an address to the working classes of Carlisle, and he said he never saw that either.

Now, you edited the *Carlisle Patriot* in 1839? Yes.

Look at this (handing him a printed document)---Have you any recollection of that? I have not the slightest recollection of it.

Was it not published in the *Patriot* as a leading article? I do not know. I have no recollection of it.

Can you say that that did not appear in your paper? I cannot say.

But it may have appeared? It may, Sir; I cannot say it did not.

The article to which I call your attention, says---"We protest in the most ardent manner against the conduct of the magistrates in compelling us to give evidence against the prisoners." Do you remember those words? I do not.

Sergeant Warran begged to interrupt Mr. Henn.

Mr. Henn---I think I am entitled now to ask him will he swear that this was not inserted in the paper with his sanction?

Sergeant Warran---He has already stated that he has no recollection of having seen that document before, and, therefore, you have no right to read one word of it.

Mr. Justice Crampton---Certainly not.

Mr. Henn---Very well. I am entitled at all events to ask him this.

Will you swear you did not, when editor of the *Patriot*, protest against reporters being examined? I said before I did not.

I know you did, but answer me again? I did not make any such protest, even in this sentence which I have used (laughter), I made no such protest.

Then you did use the sentence? You mistake me; I did not.

Were you in the habit of reporting in the House of Commons? Yes.

I suppose you often reported Mr. O'Connell's speeches? I did very often.

Did you ever state that you found considerable difficulty in following Mr. O'Connell? Yes, I did.

And that is the fact? Yes, almost all reporters found considerable difficulty in following Mr. O'Connell.

Now the Donnybrook meeting was perfectly quiet and peaceable? It was.

Was it not so at the Clifden meeting? It was.

Was it not so at Loughrea? It was.

Was it not so at Mullaghmast? It was.

And at Clifden you saw men coming on horses, with their wives behind them (laughter)? Yes.

And numbers of the cavalry without saddles and bridles (laughter)? Yes.

You were not frightened? No, I was not frightened at any of the meetings; I knew that near any of the traversers I was sure to be safe, and I always kept near them (laughter).

Was it wet at the Clifden meeting as to interfere with your reporting? No, we had an umbrella over us—still it was unpleasant.

Were you able to take notes fully? Pretty fully.

But only "pretty" fully? Yes.

Did you attend the meeting of the Repeal Association on the 4th of September? Yes, I did.

There used to be a great number of persons besides the traversers at the meeting of the association, used there not? Yes, there used.

The room was very large in which the association had to meet? Yes, it was; I think it would probably hold as many as this room.

Used large numbers to attend the meetings and the dinners in the country? Yes, the dinners and meetings were very numerously attended.

Answer me this question, Sir, if you please: Did you at any of these meetings see any of the traversers do any act inconsistent with the duty of a precept citizen? Do any act? Yes.

Was there a tendency to a breach of the peace at any one of these meetings? No there was not; I attended the meeting of the 4th of September at the Corn Exchange.

Would you have the goodness to turn to your notes of the report of the 4th of September; let me ask you did you attend at the whole of that meeting? Yes.

Did you take a note of the speech of Mr. O'Connell before that speech you read? I did.

Did you take a report of a speech of his in reference to a letter from Dundalk, namely, observation, with respect to a person of the name of Callan? I had better refer to my note; (after referring to his note he added), I have not.

Have you not a report of anything before that you read? Nothing about Dundalk.

Is it not about Dundalk, but about a letter from Dundalk?

Have you any speech of his after a letter from Dundalk was read with reference to a person of the name of Callan. No.

Have you taken a full note of the proceedings at the association. No, I did not consider those parts material.

You read a speech of Dr. Gray's about the arbitration courts. Yes.

Have you any report of a speech of Mr. O'Connell before that with respect to Ribbonism?

The witness did not answer.

Have you any recollection of Mr. O'Connell alluding to and deprecating ribbonism? I would like to see if you have a note of it? I would like to know what you think material in these cases? I have got the report of Mr. O'Connell's speech about ribbonism. "Mr. O'Connell observed, that efforts were making to extend the ribbon system amongst the people. It was the duty of the repeal wardens to watch all proceedings of that nature, and give information respecting them to the magistrates. The names of several persons in Dundalk had been sent up to London as members of a ribbon lodge." That is all I thought material.

Now turn to your note. Did Mr. O'Connell state the name of any person, or can you say if he did, from your recollection? I think he read a list of names from my recollection.

Did you hear Mr. O'Connell make a speech? I did.

Is this a transcript from your note? This is an exact transcript from my note.

A complete one? Yes, a complete one.

Mr. Ray read a letter from Mr. Napier in reply to a vote of the association.

A Juror—When was this?

Mr. Henn—At the meeting of the 27th September.

Witness read the report of Mr. O'Connell's speech, which was to the following effect:—

Mr. O'Connell said—"He is a respectable gentleman, and we cannot hesitate for a moment to insert his letter on the minutes. Mr. Napier insinuates that we commenced the attack on the Saxons; he seems to forget that the severance of the two nations emanated from the highest quarter. I heard the Lord Chancellor of England state that the Irish were aliens in blood, in language, and in religion. Mr. Conner, is no longer a member of the association, and though I approve of the resolution condemnatory of his notice, I regret he was treated with so much courtesy; I regret that he was not taken by the shoulder and put out of the room. If he were honest, he would wait until I was present before he brought forward such a proposition.

Was not his name Conner? It was a man who proposed a resolution as to the non-payment of rent.

The witness then proceeded to read the remainder of Mr. O'Connell's speech which was to the following effect:—"He should wait until I was in the room before he brought forward such a proposition. This was due to me as I am responsible for the legal formation of the association. But he took advantage of my absence to hold out a topic that would attract attention for a moment from persons who do not consider what would be the result, and by throwing out a political clap-trap try to make an impression that might be destructive of the association. I was cautioned against him. He wrote a letter to the *Freeman* yesterday, in which he assumed a look of injured innocence. The question of fixity of tenure is one of great importance. No country was ever prosperous in which it is not the object of men to acquire landed property, and we must not do anything that would make the landlord's situation cease to be a desirable one. I am ready to do all that the landlord ought to desire, but I am convinced that there must be an end to the present relation between landlord and tenant. The power of exterminating must be taken away, and the sacredness of possession must be established." After referring to an account in the *Morning Chronicle* of meetings held in Wales on the subject of tenure, and to a speech made by Lord Londonderry, the speech proceeded to the following effect:—"I now come back to Mr. Conner. Mr. Conner knew that a declaration not to pay rent charge is against an act of parliament, and that a combination not to pay rent is a direct infringement of the law; and it is the conviction of my mind that to a certain extent, the safety of the association depends upon you all declaring with me, that the name of Mr. Conner should not remain on our books. If he wanted to do us mischief is not that the course he would take? And shall I be told that he did not intend to do us an injury when he took that step? I declare him a political enemy to the people of Ireland. I will not mince the matter at all.

Have you a note of a resolution with respect to Mr. Conner? I have; it is here, immediately after he moves---

Who moves? Mr. O'Connell. He moves that the letter of Mr. Napier, and an extract from the speech of Lord Londonderry, be inserted on the minutes, and the name of Mr. Connor be expunged. This motion was carried. Mr. Steele suggested that Mr. Connor's money should be returned.

Have you any report of Mr. Steele's speech? No; but I think he said he had done so on a former occasion.

Did it appear what offence Mr. Connor had committed? Yes; it was a proposition by him as described here, that the association should agree to a resolution declaring that rent should not be paid.

Until when? I don't recollect.

Have you a report of Mr. John O'Connell's speech at that meeting? No.

After that? No; nothing after that.

Did you attend the former meeting when the same question was brought forward? No; I was not at that meeting.

I have no more questions to trouble you with.

Judge Perrin—Did you send a report of the speeches at the Donnybrook meeting to any newspaper? No, my lord, with the exception of a few sentences of Mr. O'Connell's speeches, which I wrote from memory.

You said you made a copy of it; did you send it to any newspaper? No, my lord, it was too late.

CROSS-EXAMINED BY J. HATCHELL, ESQ., Q.C.

Did I understand you right when you said you saw Mr. Ray at Mullaghmast? Yes; I think I saw Mr. Ray on the scaffold (laughter).

On the platform? Yes, on the platform; I also stated that I saw him at the banquet.

Of course you have some note of that? Yes; Mr. Ray made a speech at the banquet, and I spoke to him continually.

When did you arrive here? The day before the Donnybrook meeting.

How long were you on the way? I came direct by railway.

Did you take any part in the Cumberland election of '37, '38, or '40? I took, a warm interest in it. I supported the Conservative candidates; there was no opposition on the occasion; a brother of Lord Morpeth's was returned.

Did you take part at the election at which Sir J. Graham was a candidate? I was not then connected with Carlisle.

But are you known to Sir James Graham? I have the honour to be known to him.

Mr. Hatchell—Did you see him in June last?

Attorney General—I must say after the decision of the Court that I am surprised at the learned gentleman putting that question.

Mr. Hatchell—It is quite impossible the Attorney General can know the object of asking that question.

The Attorney General observed that cases had been cited by Sergeant Warren, to show that such a question could not be put.

Mr. Henn—Mr. Hatchell was not in court at the time my lords.

Solicitor General—That is a quite sufficient justification for his asking the question.

The counsel for the traversers then intimated that the cross-examination of the witness had closed, and the court adjourned to ten o'clock next morning.

## FIFTH DAY.

The judges sat at ten o'clock precisely, at which hour the traversers were in attendance.

The jury having been called over, the evidence for the crown was resumed.

The first witness called was Mr. John Jackson, the Irish correspondent of the *Morning Herald*, who having been sworn, was examined by Mr. Brewster, Q.C., and deposed as follows:—I am connected with the press: with the *London Morning Herald*; I am the Irish correspondent of that paper, and was so in the course of last summer and last autumn; I attended at the meetings of the Repeal Association; I was in the habit of transmitting regularly to London, by the post, reports of what took place at those meetings.

Mr. Brewster—My lords, I wish to apprise you that it is not my



intention to make this gentleman go over all the speeches which the court has already heard. I will confine myself almost exclusively to asking him who took part at the meetings.

Mr. Fitzgibbon, Q.C. said they had no wish to get any notification on the subject.

Mr. Brewster said in that case he would make his announcement to the court. He wished to apprise their lordships that he did not mean to make the gentleman on the table go over all the speeches that had been already read in evidence, but he would merely confine himself to an account of which of the traversers took part in them.

The examination of Mr. Jackson was then resumed. Some documents were handed in to the witness by the Crown Solicitor.

Mr. Brewster—Just cast your eye over that, and see if these are your own original notes that you sent to London? Yes, they are.

Is that your report of the meeting of the 30th of May? It is. I see page 8 in the report. I see that Mr O'Connell is there represented as having made a speech. The report is as follows:—"Mr. O'Connell then proceeded to call the attention of the association to an error into which a Dublin journal had fallen in reporting the proceedings at Longford. He (Mr. O'Connell) was made to designate the army of England a ruffian soldiery. He said no such thing." He then went on say—

Don't mind what follows, as your report there ceases to give what he did say. Look to page 6 of your report. I believe you have not seen these reports since they came from London? Yes, I got them from Mr. Kemmis to initial them.

Mr. Jackson then proceeded to read his report of Mr. O'Connell's observations respecting the members of the Irish bar, who had, about that time, joined the Repeal Association.

He was next directed to refer to his report of the meeting of the association on the 6th of June.

Chief Justice---To what meeting are you now going to refer?

Mr. Brewster---This gentlemen's evidence, my lord, is all applicable to the association meetings at the Corn Exchange, and nothing else.

Witness---I perceive from page 1, that Mr. O'Connell was present at the meeting. The member for Kilkenny, Mr. John O'Connell, Mr. Barrett of the *Pilot*, and Mr. Steele, were also present. The witness then read some extracts from Mr. O'Connell's speech, referring to Saxon cruelty in Ireland, and then continued to read as follows:—"Mr. O'Connell then announced his intended meetings for the remainder of the month. He was to be on June the 8th, at Kilkenny; on the 11th, at Mallow; 13th, at Murroe, Abington; 15th, Ennis; 18th, Athlone; 21st, Enniskillen"---that is a mistake (laughter). [The meeting that should have been inserted, was probably Ennistymon.] "On the 28th, at Galway, and on the 29th, at Dundalk." This witness was continuing to read his report of what followed, when

Mr. Hatchell, Q.C., said the meeting of which evidence was then given, did not appear in the bill of particulars.

Mr. Brewster said it would be found that all the meetings of the association were set forth in the bill of particulars.

Mr. Ford, the agent for Mr. O'Connell, said the meeting of the 6th of June was not in the bill of particulars, so he supposed no such meeting had been held.

Mr. Brewster said Mr. Ford was not entitled to make any such remark. If necessary he was prepared to show that they would be justified in giving that meeting in evidence; but he was willing that the jury should erase that meeting of the 6th of June from their notes.

Examination continued—I have my report of the meeting of the association held on the 4th of July before me. I perceive from it that Mr. Daniel O'Connell, Mr. John O'Connell, Mr. Ray, the secretary, and Mr. Steele were present.

Mr. Brewster—Does the report state anything about American money being handed in? Yes, it says there were sums of money handed in from America. Go to the meeting of the 5th of July. I have it here. I see from page 1 that Mr. O'Connell, Mr. Duffy of the *Nation*, and Mr. John O'Connell were there. Mr. O'Connell said "he wished to state that he had that morning received a letter from Sligo enclosing a letter from a discharged soldier stating that he was employed by Mr. O'Connell to drill the people. That letter could not be then produced, because Mr. Ray, the secretary was ill, and some of the clerks in the office had mislaid it."

Mr. Brewster said he wanted that extract to show that Mr. O'Connell described Mr. Ray as the secretary.

The witness then continued to read his report of some observations made by Mr. O'Connell at the same meeting, respecting Ribbonism and Chartism in the north of Ireland; and also a sentence stating that the secretary read the minutes of the last day's proceedings.

Mr. Brewster.—Who was it that acted as secretary on the occasion?

Mr. Jackson—I cannot remember. The witness then read a motion by Mr. O'Connell that the American letters should be entered on the American book of the association. Look to the meeting of the 18th of July.

Mr. O'Connell here suggested that the meetings proved by the witness should be handed in and marked by the officer of the court.

The transcribed notes proved were then all initialed by the clerk of the crown.

At page 1 see if any of the traversers were present at that meeting?

Mr. O'Connell was present and Mr. John O'Connell. Page 4, Mr. Barrett, of the *Pilot*; page 12, Mr. Ray; and page 14, Dr. Gray.

The Chief Justice having complained of there being great noise in the court,

Mr. Fitzgibbon suggested that those who had nothing to do with the trial, and who could not avoid coughing, would go home and cook themselves, and the court would be quiet enough—(laughter.)

Mr. Brewster—Do you find Mr. O'Connell making a speech at page 3? The witness replied in the affirmative, and proceeded to read a speech of Mr. O'Connell's, eulogising the conduct of the Rev. Mr. Murtagh, and stating that he would attend a meeting at Baltinglass on his birthday. It further mentioned that newspapers had to be furnished free to persons who collected subscriptions to a certain amount. Spoke of money having been

lodged in the funds, and 1,000*l.* having been advanced towards the building of the Conciliation Hall.

Look to page 12, and see if Mr. Ray handed in money ? The secretary (Mr. Ray) handed in money from England, Scotland, and other places.

Did any one else hand in money ? Yes, Dr. Gray did.

Look to the association meeting of the 25th July, and see who attended ? At page 2 I find that Mr. Ray was present, and handed in various subscriptions ; page 6, Mr. O'Connell ; page 8, Mr. Duffy, of the *Nation* ; page 9, Mr. J. O'Connell, and Mr. Steele.

Did Mr. O'Connell speak at that meeting ? He did ; he spoke of the moneys paid in for the quarter ending the 4th of July, 1843, and compared it with the money paid in the same quarter of the previous year.

Look to the meeting of the 14th of July, and see who were at that meeting ? At page 2, I find Mr. Ray, Dr. Gray, and Mr. O'Connell were present ; page 4, Mr. Steele ; and page 12, Mr. Duffy, of the *Nation*.

Mr. Whiteside objected to this meeting being given in evidence, as there was not any meeting dated the 14th of August, mentioned in the indictment.

Mr. Brewster read the charge with the date in question attached to it from the indictment, but it was afterwards ascertained to be a mistake—upon which he referred the witness to his notes of the 22d of August, and asked him to read the names of the traversers who were present ? At page 3 I find that Mr. O'Connell was there, and read letters from different repeal wardens, enclosing subscriptions. At page 7 he read one from Philadelphia, also enclosing money from the “ friends of Ireland.” signed by Judge Doran, after which he made a speech condemning negro slavery.

Did you get a document at that meeting of the association ? (Document produced)—I got this document.

I believe it is the renewed plan for the restoration of the Irish parliament ? It is.

The Deputy Clerk of the Crown read the document, which has been published. He next read “ a population return, as taken from the return of 1831.” This document was appended to the plan, &c., and has been also published.

Mr. Brewster—Now go to page 11 of that day, and see do you find anything about arbitration ; and, if so, what was mentioned about it ? Witness, (looking at transcript), I don't see anything of it here.

Look at the last four lines ? Oh, yes, I see now. “ He would further move that the association should adjourn to to-morrow at two o'clock, to receive the report of the arbitration committee, and to adopt a petition for the abolition of the Catholic oath.”

Look at page 4, and see who were present ? Mr. Barrett and Daniel O'Connell

Mr. Justice Crampton—This was on the 23rd of August ?

Mr. Brewster—Yes, my lord.

To witness ; Look at page 5 ? Mr. John O'Connell.

Go to page 8 ? Dr. Gray.

Now go to page 4, and read what Mr. O'Connell did or said ? Mr. O'Connell moved the admission of several members ; Rev. T. O'Reilly

and others. Mr. O'Connell read a letter from New York, enclosing 18l., and expressing the great indignation of the subscribers at the wrongs of Ireland. He then moved that the letter be inserted on the minutes, and the thanks of the association given to the subscribers. He next read a communication from Utica, enclosing 23l., and stating that the Repealers of Utica might be depended upon in any emergency. Mr. O'Connell moved similar motions as the former with regard to those letters. He next announced he had received 5l. from Harcourtstown Virginia. From New York, 25l., and from New York again, from the "friends of Ireland," 50l. This letter was tarnation strong enough, (great laughter), and filled with high-sounding words. Mr. O'Connell said "he would suggest the propriety of consulting with the newspaper proprietors as to the practicability of printing supplements once a week, in order that all letters from the country should be printed and circulated."

Mr. Brewster—Go to page 8 now? "Dr. Gray of the *Freeman's Journal*, brought forward the report of the committee appointed to arrange the nomination of arbitrators. The report suggested that the three arbitrators, at least, should be appointed for each district, and other local circumstances. That the repeal magistrates who were dismissed, and the other magistrates who had resigned, should be elected arbitrators, and that the various documents used in the courts should be given free to the people. Dr. Gray concluded by moving that the report should be received and adopted."

[A document was put into witness's hands.]

Mr. Brewster—You got that document from the association that day? Yes.

The Deputy Clerk of the Crown read the document, which was a manifold copy of the report of the arbitration committee, alluded to in the witness's transcript. It concluded, "signed by order, John Gray, August 21, 1843."

Now look at the meeting of the 28th of August, page 1, and see do you find any of the traversers' names, as having been present at that meeting? Yes, Mr. Steele.

Look at page 3? John O'Connell.

Go to page 7? Mr. Ray and Mr. O'Connell.

Go to page 10? Dr. Gray.

Now go back to page 7. Did Mr. Ray do anything? Mr. Ray read a letter from Louisiana, enclosing a bill on Mr. Rothschild for 126l. Mr. O'Connell moved the insertion of the letter on the minutes, and said he was glad to perceive that their supporting liberty had not prejudiced them in the eyes of at least some of the people of America. Mr. John O'Connell read a letter from Cincinnati, Ohio, enclosing 113l. 10s."

Go to page 10 and see do you find Mr. O'Connell making a speech at 10 or 11? Mr. O'Connell expressed his hope that before that day week the arbitration system would be in full operation throughout the country. He had on the last day but one submitted his plan for the renewal of the Irish parliament." Mr. O'Connell proposed, that the arbitration system should be commenced in the town of Arklow and Ardee, and that the constituency should be taken according to the census of 1831. He also

read a letter from Mr. Barry, from Mallow, stating that the number of the inhabitants of that town entitled it to 2 representatives, in which statement he (Mr. O'Connell) concurred. The witness then proceeded---I was present at that meeting of the association on the 29th of August; Mr. O'Connell, Mr. John O'Connell, and Mr. Ray were there; Mr. O'Connell addressed the meeting and submitted for its approval an address to the British subjects on the state of Ireland.

Mr. Brewster---The speech made by Mr. O'Connell on this occasion was read by Mr. Ross yesterday. I apprehend there is no necessity for its being read again.

Are you able to say how the speech was received by the persons assembled? With cheers occasionally; Mr. Ray, Mr. O'Connell, Mr. John O'Connell, and Mr. Steele were present at the meeting on the 4th of September; Mr. O'Connell handed in various sums of money from places in Ireland and England; 22*l.* from New York, and 58*l.* from Boston; on the same occasion, Mr. Ray said it was suggested by Mr. Barrett to the association, that they should obtain such productions as the work called the "Spirit of the Nation," and abandon the dissemination of the trash they had previously been spreading amongst the people.

Mr. Moore---Did Mr. Ray say nothing more than what you have stated? Not at that time. Mr. O'Connell, at a subsequent period of the proceedings, said that on the next Sunday he would be at Loughrea, where 300,000 or 400,000 would be assembled; and where it would be impossible for all the spies in the pay of the government to create a breach of the peace; on the Sunday following, he said he would be at Conne-mara; and he concluded his speech by detailing his plan for the restoration of the Irish parliament; at a meeting of the association held on the 11th of September, Mr. O'Connell, Mr. Barrett, Mr. Steele, and Dr. Gray, were present; Mr. Barrett handed in 21*l.* from Fermanagh, and Mr. O'Connell handed in 500*l.* from America; Dr. Gray said that circulars had been forwarded to the repeal wardens throughout the country; and he read communications from several ex-justices of the peace, expressing their willingness to serve as arbitrators; Mr. O'Connell on the same occasion made a speech, in which he said that the Orangemen had sought to make the repeal movement a religious matter, but they could not do it; his (Mr. O'Connell's) object, and the object of the association, was to serve the people of Ireland of whatever creed or denomination; Mr. O'Connell, Mr. Steele, and Mr. Ray were present at the meeting held on the 13th of September; Mr. O'Connell read an address from Washington, and the district of Columbia, in which the people of Washington expressed deep sympathy for the condition of Ireland; the address, Mr. O'Connell observed, was replete with good sense, and written in a spirit of national liberty and independence; Mr. Ray read several communications from the country, in reference to the new constitutions; Mr. O'Connell subsequently moved that the address which he had prepared to the British subjects should be printed on broad sheets, and posted on the walls of every town in Ireland, England, Scotland, and Wales; Mr. Ray, Mr. John O'Connell, and Mr. Duffy, were present at the meeting of the association on the 21st of September; Mr. Duffy

handed in subscriptions from several places in the north of Ireland; Mr. O'Connell, Mr. John O'Connell, and Dr. Gray, attended the meeting held on the 27th of September.

Mr. Brewster---The speeches made on that occasion by Mr. O'Connell were read by Mr. Ross yesterday. I will not trouble the court by hearing them read again.

Mr. Whiteside---This witness's note may not be the same as Mr. Ross's.

Mr. Brewster---I merely wish to prove who were present at the meeting.

[The witness in answer, proceeded to say. Mr. O'Connell, Mr. John O'Connell, and Mr. Ray, were present at the meeting on the 28th of September.]

Did Mr. O'Connell state anything as to any other meeting to be held? He made some observations in refereace to the conduct of the meeting at Mullaghmast.

Mr. Moore---If the object is to corroborate the testimony given by Mr. Ross, I contend that Mr. Brewster should not read what he likes.

Mr. Brewster---I proposed to prove that the persons were at the different meetings which he deposes. In some instances Mr. Ross was not present, in others he was present, and I thought it desirable to call upon him to read the speeches at which he himself was present. I want him to tell me if Mr. O'Connell announced the meeting at Mullaghmast.

Mr. Moore contended that the learned counsel had no right to call upon the witness to read those passages which he considered material.

The Chief Justice said he thought Mr. Moore misunderstood the course taken, that was not the course.

Mr. Moore said he heard Mr. Brewster say he began in the middle of a speech.

Mr. Brewster said no; it was in the middle of a page.

Mr. Whiteside said that Mr. O'Connell referred to the address of thirty Irish members, and if such a document were observed upon by Mr. O'Connell, we have a right to have all read.

Chief Justice---The witness was stopped in that; I don't consider any part of that read; he was stopped in a part of evidence to which counsel did not intend to call his attention; but that does not preclude the counsel for the traversers from asking the witness about the speech of Mr. O'Connell: and I would at once say it would be quite unfair for the crown to give a garbled extract of a speech, and not give the rest.

Mr. Brewster to witness---Were there any other traversers at the meeting? Mr. Steele was also at the meeting. I will now come to the meeting of the 3d of October. Look at page 1, and tell me do you find that any of the traversers were there. Yes, Mr. O'Connell was there. Go to page 4. Mr. Steele was there. Go to page 5. Mr. Duffy, of the *Nation*, was there. Go to page 6. Mr. Ray and Mr. John O'Connell were there. Go to page 7. Dr. Gray was there. Go to page 14. The Rev. Mr. Tierney, of Clontobret.

Mr. Brewster said that Mr. Hughes read the whole of the proceedings at the meeting from his short-hand notes, and he would not ask the witness any more in reference to it.

Mr. Fitzgibbon---I object to Mr. Brewster telling his reasons for not examining the witness in reference to that meeting.

Chief Justice---I beg pardon, the court have a right to be informed upon the subject for their own satisfaction.

Mr. Fitzgibbon---Having in his own mind determined not to ask the witness any more questions, Mr. Brewster has no right to state his reasons for coming to that determination.

Mr. Moore---I object to the inference being raised, that if the crown liked they could call upon the witness to frustrate the evidence of Mr. Hughes.

Mr. Brewster (to witness)---At the several meetings, in reference to which you have given evidence, did many persons attend? Sometimes more, sometimes less (laughter).

Were they generally well attended or not? Generally well attended.

Now, at any of the meetings of which I have been asking you, are you able to recollect whether you heard any of the traversers, Mr. O'Connell, Mr. John O'Connell, or Dr. Gray, say anything about newspapers?

Mr. Fitzgibbon---Is that a legal question?

Judge Perrin---To what occasion do you refer?

Mr. Brewster---To any of the meetings to which he deposed.

Mr. Fitzgibbon---I pray your lordships' attention to the generality of the question.

Judge Perrin---He must fix the time, or the witness cannot give evidence.

Mr. Brewster---I want to avoid leading the witness. Did you (to witness) hear anything said about newspapers? Nothing.

My lords, I am done.

#### CROSS-EXAMINED BY MR. FITZGIBBON, Q. C.

May I ask you what countryman you are? I am a Clare man.

You are an Irishman, at all events? I am.

How long have you been a reporter? I have been acting as a correspondent for the last two years.

I did not ask you how long you had been a correspondent; what I asked you was, how long had you been a reporter? I cannot say I am a reporter.

Does that mean that you are not a reporter? I am not a short-hand writer.

I did not ask you that; do you mean to say you are not, and never were a reporter? Not in the sense you understand the word.

What sense? The term is applied to a short-hand writer, and I am not one.

Do you mean by a reporter a short-hand writer, or a writer of stenography? Yes.

Try and give me an answer to a simple question. Were you ever in the capacity of a person reporting proceedings in courts of justice for the purpose of having those reports published? Yes, after a manner.

Then you were a reporter of public proceedings which were intended for publication in newspapers? Yes, I was.

Now mind, that is what I mean by a reporter. When did you begin that occupation? I suppose three or four weeks ago.

For what purpose were you engaged? I was in the habit of contributing to provincial papers.

Now mind I don't mean by a reporter a contributor; What provincial papers were they? Papers in the country; the *Limerick Star* and *Limerick Chronicle*.

What were the politics of the *Limerick Star*? Liberal.

What were the politics of the other? Conservative.

Did you send reports to both at the same time? No.

From whence did you send them? I sent them from my own place.

Of all this world will you tell me what place belongs to you? Kilrush.

That is your place? My native place.

And you reported some public proceedings of interest in that place?

They had no reference to politics; they were sketches of the petty sessions.

Were they illustrated sketches? They were a little embellished occasionally. (Laughter).

By that you mean to say they had pictures connected with them? They were pen-and-ink sketches.

Then the embellishment was done with pen-and-ink? Yes.

By the embellishment I suppose I may say that something was put into your report which had not in fact taken place? Decidedly; something that was not true.

Something absolutely false? Half of them were fiction (laughter.)

That is what you call reporting after a manner, (laughter). Then you commenced your career as a reporter by vending falsehood? No; I did it just upon the same principle of contributing to a magazine.

Then you contributed to a magazine? I have done so a little

You embellished what you wrote in the same way? They were tales of imagination (laughter.)

Are you a *bit* of a poet? I am a very large one; but I cannot call myself a poet.

Maybe you are what they call in the west of Clare a poetaster? (laughter.) I cannot call myself a poet; you may call me a poetaster if you choose.

Then you have been contributing verse to papers? Yes.

To what papers have you been in the habit of sending your poetry? To the papers in the country; the *Star* and the *Chronicle*.

Your poetry, I presume, had some conformity with the principles of the paper for which you wrote? None whatsoever.

Were your reports which you sent to the newspapers similar to those which you sent to the magazines? No; (as we understood witness.)

For what magazines did you write? I wrote a sketch for the *University Magazine*; a short tale.

Was it not intended to be a true one? Yes, for those who were fools enough to believe it; (a laugh.)

Now, did you intend that the illustrated sketches which you sent from Kilrush should pass for true ones? Some of them were true, some not.

When did you cease reporting at Kilrush? This month two years I came over to Dublin; I got a letter from the proprietors of the *Morning Herald*, wishing me to come to Dublin to be their Irish correspondent.



Who introduced you to the proprietor of the *Herald* at Kilrush? I met Mr. Griffin; he asked me if I were the author of sketches in his cousin's paper (the *Limerick Star*), as the proprietors of the *Morning Herald* wished me to send some sketches to them. I did so; and subsequently came to Dublin to act in the capacity of their correspondent. Dublin is a place where a man must have 'tin.'

How do you support yourself here? I receive 150 guineas a year from the *Morning Herald*.

Let me ask you what do you do for that? I send them anything which I have in reference to topics of the day; anything of public interest; a summary from the Dublin papers.

You were daily to read the local papers of Dublin, and make a summary of that part which you thought agreeable to the editor of the *Morning Herald*, and transmit it to him? Yes; I was to send anything of newspaper interest generally.

Had you the privilege of embellishing what you send him? I had.

Did you exercise it? Not in matters of truth. Some of what I sent was true; others not.

Was there any truth in what you sent? I always sent what was true to the best of my ability; I did not always make an inquiry into the truth of what I sent; but I frequently did so; where the topic was the subject of conversation I endeavoured to find out whether it was true or false.

If I understood you rightly, the manuscript which I hold in my hand was what you sent to the *Morning Herald*? That was a letter, one of which I send daily to the *Morning Herald*.

Mr. Brewster here made some observations which the reporters did not catch, whereupon,

Mr. Fitzgibbon said, I beg of you, Mr. Brewster, not to assume that I don't understand what he said. I am very nearly a Clare man myself, and can understand the Clare brogue right well.

(To witness)---Did you send those scraps of paper to the *Morning Herald*? Yes. I don't mean the substance of what these papers contain, but the identical papers themselves. The very identical papers I hold in my hand, you sent to the *Morning Herald* for the purpose of being printed? Yes.

And I suppose you know enough of reporting to be aware that it is necessary that the manuscript should be written upon one side only? Yes.

That is a part of your instructions? Yes.

In order that the manuscript, without being copied, may be immediately sent into a printing-office, to be set up? Yes.

Were these papers which you sent to the *Herald* in the same state as that in which they are at present? They were on the full length, and not divided, as some of the passages are; they were all of the same size; those two pages were not divided by me.

Then these two pages formed one originally? Yes.

You received these papers back from the *Morning Herald*? I did not.

After you first sent these papers to the *Morning Herald*, when did you see them again? I saw them about two months ago; scarce two months ago.

In whose hands did you see them? In the Crown Solicitor's.

Where did you see them ? He sent for me, and when I went to him I saw them.

Was that the first time you saw them after sending them ? Yes.

Whose initials are these ? My own.

Where and when did you write them ? At the Crown Solicitor's office, two days after I first saw them ; I did so by the direction of the proprietors.

Had you any any communication with Mr. Kemmis, the Crown Solicitor, before ? None whatever ; a letter was handed to me from the proprietors of the *Morning Herald*, stating——

Don't mind what that letter stated.

Did you expect the communication from Mr. Kemmis ? No.

When did you begin to attend the meetings of the association ? About nine months ago.

Are you a repealer ? No.

Did you pay a shilling to the association ? I paid a shilling for admission the first day I went ; I afterwards went in as a reporter.

Were these pieces of paper written by you when you were reporting at the association ; and were they your own reports taken at the time ? Sometimes they were, and sometimes they were written from the slips of the man near me.

They were frequently not your own reports, not being able to take the speeches ? Frequently not, as I was not a short-hand writer.

You sometimes copied from the slips of a short-hand writer near you ? Yes ; I sometimes copied what he had written out.

Was it while the proceedings were going on you copied from the slips of the short-hand writer ? Yes ; I gave the substance of it, endeavouring to vary it a little.

So that it might not appear to be a copy of his ? Yes.

You did that for the purpose of making your employers believe you had taken it down yourself ? Why, it is very customary ; I did it very often.

And these are the notes you read here to-day ? Some of them.

Take up the notes you have read here to-day, and select out of them any one which you can positively swear was taken down from the lips of the speaker at the time he spoke ? Upon my oath Mr. O'Connell made the observations written in this slip ; it is the substance of what he said ; I never undertake to give the exact words.

On your oath did you write on that slip of paper, while he was speaking ? Yes.

Is that taken from Mr. O'Connell's lips ? To the best of my belief it is.

Do you positively swear it ? To the best of my recollection I swear it.

You will not positively swear it ? No.

What is the date of that piece of paper ? May 30.

Will you swear it was not taken from another paper ? I cannot.

Then it may or may not have been taken ? I do not recollect whether it was taken from another paper, or from the lips of the speaker.

Can you fix on any one of these papers, which you can swear was written on while the man was speaking ? I cannot.

Take up the paper of the 5th July.

Was that little bundle made up in the same way as the others? Yes.

Was it written while you were at the association? Yes.

While the people were there speaking? Yes.

Will you swear that the whole of that bundle was so written? Yes.

Every bit of that bundle was written in the room? Yes; everything that refers to the meeting of the association was written in the room.

Will you swear on your oath positively that every word on these slips was written in the association room, from and while the speakers were speaking? Certainly not.

Did you not swear awhile ago that they were written in the room while the men were speaking? Allow me to explain; I frequently, while money was handed in, wrote out what the last speaker had said.

Then every word in these papers was written while the speakers were speaking, or something else was doing? Yes.

Look to the paper, dated the 5th of July, and read the commencement of Mr. O'Connell's speech.

Mr. Brewster objected to the newspaper being read, unless it were put in in evidence.

Mr. Fitzgibbon was not asking Mr. Brewster to look at what he was doing (laughter). He was testing the credit of the witness, and for that purpose was repeating *verbatim et literatim* what the witness had sent forward as his own report. It mattered not by what human means he was able to do so.

Mr. Brewster said that was the question. He objected to Mr. Fitzgibbon's reading a newspaper.

Mr. Fitzgibbon (laying aside the newspaper and taking up his brief.) Well, then, it is my brief I have in my hand—(laughter.)

Mr. Brewster did not object because it was a newspaper from which Mr. Fitzgibbon was reading---he required that whatever he read from should be given in evidence.

Mr. Fitzgibbon contended that he had a right to repeat what the witness had written, in order to show them that that which purported to have been taken from his own notes, was copied from a morning paper, published the day after the meeting.

Mr. Justice Crampton---Am I to understand that you intend to give the paper in evidence?

Mr. Fitzgibbon---No, my lord.

Mr. Brewster said he would withdraw his opposition if Mr. Fitzgibbon would put the document in evidence. It was necessary Mr. Fitzgibbon should be required to do so, as he might be reading an exact transcript from the *Morning Herald* itself.

Mr. Fitzgibbon said he would waive the point, and attain his object by putting a question to the witness. Now, on your oath, where did you copy the paper in your hands? To the best of my recollection I copied it from notes taken at the meeting.

To the best of your recollection did you do that while Mr. O'Connell was present, and speaking? I cannot positively swear; it is possible I might have got it or seen it in the morning papers.

Will you swear you did not get it until next day?

Judge Perrin---Of course that is what the witness means.

Witness---It is quite possible I copied the report from a note-taker by me, but whenever I did adopt the report in the morning newspapers, I cut it out and sent it to London in print, as I cut it out of the paper.

Judge Perrin intimated to the witness that if he gave a direct answer to the questions put to him he would save himself a great deal of trouble, and the court a great deal of time.

Mr. Fitzgibbon---Then that piece of paper now in your hand, and which you sent as your report to the *Morning Herald*, might have been copied by you from any note-taker sitting near you at the Corn-Exchange, or you might have copied it from the newspapers containing an account of the proceedings next morning? Witness---I cannot say which was the case in this instance.

A Juror---Did you not swear that you wrote all that during the time you were in the Corn-Exchange? Yes; the majority of those papers were written during the meetings.

Mr. Fitzgibbon---That is not an answer to the question put to you.

Judge Crampton (to the jury)---You had better leave the witness in the counsel's hands for the present.

Mr. Fitzgibbon---Now, will you answer the question that gentleman put to you very properly? To the best of my recollection the majority of these papers were written during the meetings.

Will you swear that they were all written during the meetings? The majority of them were, and some were written next day.

Did you not say a while ago that they were all written during the meetings? I said, generally speaking, all of them were, but I could not swear positively that they were all written then; I do not remember saying to-day that they were all written by me during the meetings; I swear that positively; I don't think I did swear that they were all written at the meetings; I was not always writing memoranda of the proceedings while they were going on; sometimes I was only a listener, and not taking notes at all; I recollect Mr. O'Connell's making a very long speech upon the subject of negro slavery; I was present; it was spoken on the 5th of July last; to the best of my recollection I was present at the association on that day, when Mr. O'Connell spoke at great length upon the slavery question.

Now, I beg that answer may be specially taken down. (To the witness)---Were you present at the whole of the meeting of the association on the 5th of July? I was there that day certainly, but I cannot say whether I left before the proceedings were over; I will not swear positively that I was present there for an hour or for half an hour. Generally speaking I remained for two or three hours; I was there for more than an hour that day; I am sure of it; I remember for a certainty that I was there for an hour that day, but I did not "time" myself, and I cannot therefore be certain; I cannot, as a matter of certainty, state positively that I was there over one hour on the 5th of July, nor a quarter of an hour, but I will read it from my notes if I am allowed; I will swear positively that I was there for a quarter of an hour; I cannot swear who was on his legs speaking when I went into the meeting, or whether any one was; there were of course persons in the room whenever I went into the Corn Exchange; it was

mid-day on the 5th of July when I went there; I am sure I heard Mr. O'Connell there that day, but I cannot swear that I heard the whole of his speech; I went to the association about twelve or one o'clock; I cannot say when Mr. O'Connell came in, or whether he was there when I arrived there; but I swear he was there that day, and that I saw and heard him speak there—I mean according to my note (laughter).

Will you swear from your own living memory that you saw Mr. O'Connell coming into the association on the 5th of July? I either saw him coming into the room, or he was there before me when I went into it.

And that is your answer from the county of Clare? Yes, and I am not ashamed of it (laughter).

Mr. Fitzgibbon—I believe that Atlantic breeze hardens people's faces very much; does it? It may, but it has not hardened mine at all events.

Will you swear that the Atlantic breeze, or anything else, has not hardened your face? I don't know that it not hardened me in particular, but I think I will prove before I leave this table (if I am allowed to explain, as in justice I ought to be) that it has not.

Now turn to your note of the 4th of September, and mind, don't lose sight of the question between us—namely, that you are to prove to us before you leave the table, that you are not a hardened man. Will you find for me the passage of Mr. O'Connell's speech which you detailed to us to-day, and in which it is stated in your report that he said, “no tumult should take place in his day.” Also read the passage in your report of his speech which has the word “advisable” in it? The witness then referred to his note of the speech, but it appeared it was spoken on the 29th of August, and not on the 4th of September.

[After reading his report of the speech of Mr. O'Connell on the occasion the cross examination was resumed.]

Were you that day present when Mr. O'Connell was speaking the speech of which that purports to be a report? I was.

You heard him begin and end it? I did. I was writing at the time.

And that is the report you were writing? It is; I wrote it out while I was there.

Did you write out the identical thing you read here to-day while Mr. O'Connell was speaking? I did.

On those very indetical pieces of paper? Yes.

As the words fell from Mr. O'Connell's lips? I do not say I have used the very words he used, but I took the substance of the speech.

Then you did not take it from any other report, or from any newspaper? Positively not; I wrote it while Mr. O'Connell was speaking.

On your oath you swear that Mr. O'Connell that day used the words—“It would not be an unnatural or unadvisable result,” which you have just read? To the best of my recollection he did.

On your oath will you swear that he said the word advisable? On my solemn oath I did.

Will you swear it positively? I would not put it down if I did not think he need it.

I want you to state positively did he use it? To the best of my belief he did.

You will not give any answer except qualified in that way ? On that occasion I will not.

Who was sitting next you on that day ? I cannot remember.

Was any person sitting near you ? Some of the reporters.

Can you mention the name of any one reporter who was sitting near you ? The reporters of the *Freeman's Journal* and *Saunders* were there.

Name any particular reporter ? To the best of my belief that gentleman there (Mr. Edwards) was present.

Are you certain ? To the best of my belief he was.

Can you for certain name any gentleman ? I think I could swear Mr. Edwards was there.

Oh, I think you could swear it too. Then you cannot name a single reporter who was present ? I cannot ; the usual corps of reporters were there, but I cannot swear to any one reporter in particular.

Let me put a simple question to you. Can you name any single person who saw you in the association rooms that day ? Any one who was there might have seen me ; Mr. O'Connell or Mr. Ray might have seen me ; I had not the honour to speak to Mr. O'Connell that day, and I cannot say that I expect to have that honor hereafter ; I cannot name any others who might have seen me.

And do you know Mr. O'Connell and Mr. Ray are traversers, and cannot give evidence ? Can you name any man who opened his lips there to you that day ? At this distance of time I cannot.

It is only the 29th of August last—did you speak to any one ? I cannot say.

Can you name any one man, woman, or child who spoke to you that day ? I cannot except those two gentlemen.

What two gentlemen ? Mr. O'Connell and Mr. Ray.

But you have not positively sworn that even they spoke to you. Who was in the chair ? I cannot remember.

Was Mr. John O'Connell there ? I cannot say without referring to my notes. The witness (after looking through his notes) said he perceived Mr. John O'Connell was there. I took notes of these three gentlemen, because one always mentions the leaders : one cannot play *Hamlet*, you know, with the part of *Hamlet* left out.

Did Mr. John O'Connell say any thing ? He did. I have here that " Mr. John O'Connell thought it would be better if the matter was first submitted to the committee." I certainly did not take this from the newspapers. I cannot swear how long Mr. O'Connell was speaking. He was probably speaking for nearly an hour. I do not think there was any other speech except that of Mr. O'Connell, made on that day. There was no long speech made, except Mr. O'Connell's, but there might be a few short observations.

And yet you read your report of that long speech, which was the speech of the day, in three or four minutes ? Do you swear these words were used—" He would not say that such would be an unnatural or undesirable result ?" I think those were his words, precisely.

Do you swear they were his words ? On my oath, to the best of my belief, they were.

How near Mr. O'Connell were you at the time ? As near as I am

now to the corner where the Attorney-General is sitting. I did not pay a shilling to get in, as the porter admitted me.

Then the porter knew you to be a reporter. Did you look at any gentleman's slips there? I cannot say.

There were short-hand reporters there that day? The majority of the reporters wrote short-hand notes. A short hand reporter could decidedly take a more faithful report of what Mr. O'Connell said than I could.

Cross-examined by Mr. Whiteside, on the part of Mr. Duffy—Now, Mr. Jackson, draw upon your memory and not upon your imagination for your facts. Was Mr. Duffy at that association on the 6th of July? I cannot say without referring to my notes.

Can you swear you saw him on the 25th of July? I cannot without referring to my notes.

You sometimes copied from the slips of some other reporters, and sometimes from the morning journals of next day? I did.

The materials of your knowledge were sometimes taken from the morning journals and from the slips of others then? Yes.

You have a taste for eloquence? Not the slightest (laughter.)

Don't you deal in "thunderbolts" and "tarnation fine things?" It is my own thunder (laughter.)

Oh! yes, to contribute to the magazines, that is obvious? Not to the powder magazines (great laughter.)

These things suit the London market? They go down with the Londoners; they are very gullible (laughter.)

You could not remember anything particular of what Mr. Duffy said? No.

You do not take down the names of all persons who are at the association? No.

Only the Wellingtons and Napoleons? Yes.

Did you give an account of all you saw to Mr. Kemmis? No.

Did Mr. Kemmis tell you how to take down your report? No; I got a letter from him, desiring me to call upon him. He told me he had got my copy from the *Morning Herald* office, and that he would be required to verify the report.

Did he produce all the letters to you? I suppose not.

On your oath don't you know all your letters have not been produced? They have not.

Some of the jurors here retired, and the court adjourned for a short time.

The court having resumed, the cross-examination was continued by

Mr. Whiteside—Now, Mr. Jackson, have you been refreshing your memory as to your poetical allusion to the "*Songs of the Nation*?" Turn to the date of the meeting Mr. Brewster asked about, and read the musical allusion you say was made by Mr. Ray. Did you not state to the court, on the direct examination, that Mr. Ray made a speech in which he said so and so upon that occasion? Did you not intend to convey that Mr. Ray made his observations, in the nature of a speech? It was not a speech.

Then what was it? A casual observation.

Then it was not a speech—is that settled? It was a casual observation.

Tell us how long it was? Mr. Ray suggested that the singers and

venders of ballads should adopt the songs in the "*Spirit of the Nation*," and abandon the trash that had been in circulation.

Will you swear that you were present when it occurred? I cannot positively.

Will you swear that it was not given you by somebody else, or copied from another paper? I will not swear it was not.

Will you swear that Mr. Ray did not say this, that he had got a letter, in communication, addressed to him, stating that certain ballad-singers had been taken up for singing improper songs, and that Mr. O'Connell then applauded the arresting such persons, and said he would move a vote of thanks to those who did it; will you swear that this did not occur? Allow me to explain. My notes were only a general summary for reference.

I understand. They were meant to meet the taste of the English readers of the *Morning Herald*, and you will not undertake for their accuracy? I will not.

Then we quite agree, Mr. Jackson, as to the value of your reports. Now, you have given half a sentence of a speech of Mr. O'Connell's, but the matter was checked. It was about an address published by the Irish representatives, or a section of them, to the English people; do you remember that? Yes.

Did not Mr. O'Connell state that it was a public document, and commented upon it on that occasion? He did.

Do you recollect the substance of that address: was it not a statement from some of the Irish representatives—the member for Belfast among others—of the grievances of the Irish people? It certainly was.

Then on that occasion Mr. O'Connell stated the substance of that address, and commented on it? He did.

This document stated the grievances of the Irish people, political and religious? It did.

Did you ever consider those political and religious questions, as they affect the people? I never went deep enough for that.

On that occasion did not Mr. O'Connell say that the people were discontented, but not disaffected? Yes.

And that the people were loyally disposed to the Queen? He did so.

And that they were loyal to her person? He did.

Did he not also speak of the French constitution and of Louis Philip? He did; more than once.

He spoke very sharply I believe of the French and their systems of government and education? He did so; and very right.

He spoke too of other things; did he not? He spoke strongly of their constitution because their House of Lords was a mockery? He did so speak of it on these grounds.

Did he not say that their University taught infidelity? He did.

Well, there was harm in that. One thing more about the *Nation*. Do you not remember Mr. O'Connell distinctly saying that he repudiated any newspaper being the organ of the association, and that he particularly repudiated the *Nation*? I heard him say so; I am almost certain of it.

Do you recollect the day when the plan for the renewed action of the



Irish parliament was proposed; did he not say this on that occasion? I have heard those sentiments uttered by him.

I suppose in sending your sketches to the *Herald* you seasoned them-- (laughter)--according to palate; the literary palate of the readers of that journal? I may throw in a little fun to make them amusing, (laughter.)

Oh! I understand. You make them spicy---(great laughter)--to make them go down? Yes.

The *Herald* has changed hands lately; has it not? It has.

Was it since it changed hands that you received directions to vary your writing at the Crown Solicitors? It was a few days before.

Did you not hear Mr. O'Connell say that he would not be held responsible, or the association either for anything that might appear in that paper? I heard him say that.

Mr. Whiteside having told the witness that he might go down from the table,

Mr. Jackson said he wished to make one or two observations in vindication of his character.

Mr. Fitzgibbon objected, because the witness, if he wished to explain, should have done so during his examination.

Mr. Jackson—I merely want to make one observation, my lord, to vindicate my character before the public.

Mr. Fitzgibbon—You shall not, Sir.

The Chief Justice---Let me hear what you have to say? Those manuscript documents, my lord, were given by the proprietors of the *Morning Herald* to Mr. Kemmis, the crown solicitor, and, so help me God, I never saw them, or knew he had them, until he produced me the letter of those gentlemen, stating they had furnished him with them, and requiring me to initial them. I considered it was due to my character before the world to make this plain explanation of the truth.

Cross-examined by Mr. Moore—Look to your notes of the 3rd of October. I have them here.

Did you take these notes on the day of the meeting, and at the meeting? Yes, I did.

Do you know the Rev. Mr. Tierney? I do not know his person.

If I mistake not you expressly mentioned his name amongst the names of the persons who you swore were present at the meeting of that day--- did you not? Look to page 14 of your notes. By a reference to my notes, at the page you state, I find that he is here stated to have been present.

You do not know his person, you admit? No, I do not.

How then does it come that you put down his name in your note-book as one of those who were present? How could you swear he was there if you do not know his personal appearance? From the position in which the reporters sat it was quite impossible for us to see Mr. Tierney when he was addressing the meeting; I could not see him, but I heard some gentleman making a long speech; I inquired who was speaking, and I was told it was the Rev. Mr. Tierney; that is all I know; I never saw him before or since to my knowledge, and I could not now swear to his person; I merely heard him speaking.

Did I not understand you, in your direct examination, to swear distinctly that the Rev. Mr. Tierney was present at the meeting? I may have sworn so; but I have explained to you the reasons I had for arriving at such a conclusion; I heard him make a long speech, and I was told the speaker was the Rev. Mr. Tierney; therefore it was that I put down his name as one who was present.

You swore distinctly that the Rev. Mr. Tierney, of Clontibret, was present, and yet you now tell us that you neither know nor knew his personal appearance. Let me ask you, Sir, will you take upon yourself now positively to swear that the Rev. Mr. Tierney, of Clontibret, was there at all? To the best of my belief he was there.

I don't want your belief. Can you swear positively he was there? No, I cannot swear positively; but to the best of my belief he was; but somebody made a long speech, and Mr. Tierney's name was put down as the name of the speaker by all the reporters.

Mr. Moore, Q. C., said that he wished to submit to the consideration of the court an application which he had made to the counsel at the other side, and which, he was sure, was one which would meet the sanction and approval of the court. The crown witnesses which had been examined yesterday and the day before had read a variety of very lengthy documents, which, they said, were reports of what had taken place at several repeal meetings. It was utterly impossible for the traversers' counsel to take anything like an ample and faithful and connected note of those documents; but he applied to the gentlemen at the other side to give copies of what their own witnesses had read in the course of giving evidence, and he thought this was a very reasonable request and should be acceded to, for assuredly the traversers ought to clearly understand what was to be used against them. He did not see how there could be any objection to such a concession, for the documents were supposed to be in the recollection of the jury, and were now public property.

The Chief Justice—-I do not know that it is in the power of the court to make any order in your favour, Mr. Moore.

Mr. Moore—-But even though it be not in your lordships's power to make an order, still it is open to the court to state what view they take of the application; for thus perhaps any objection which exists on the part of the crown to the granting of our request may be removed. I wish that this application should receive the sanction and approval of the court, for it seems to me a very fair one.

Judge Crampton—-I really think that the application is a fair one, and might be granted, in case you have no means of knowing the precise contents of the documents that have been read. But have you not a shorthand writer of your own who could have taken a full and accurate note of the documents?

Mr. Moore—-No shorthand writer that ever lived could take a full and accurate note of the documents as they were read.

Judge Burton—-Is it only one document that you require?

Mr. Moore—-What we want is, copies of the reports that were read yesterday by the witnesses, for which we are ready to pay. The documents are public property, and we are willing to defray the expense of copying them out of our own pockets.

Mr. Fitzgibbon said it was most essential that the traversers should have copies of these documents, for the crown would have the final reply in this case, and they would have full copies of the reports read by their witnesses, and from which they could cull and gather such extracts as suited their own purposes, whereas the counsel for the traversers would only have their recollection to depend upon for such passages as they dreamed favourable to their clients.

The Attorney General said that the crown could not think of granting the application, and the grounds on which they refused it were those, that such a course had never been before adopted, and was utterly without precedent. Besides, he objected to such a proceeding, because he could not but remember the course that had been already pursued with respect to one or two of the crown witnesses by the traversers; and, although he did not anticipate the repetition of such a course, he thought that the manner in which the witnesses had been treated furnished, in itself, sufficient reason why the request should not be complied with. All the meetings with respect to which evidence had been given by the crown witnesses had been reported in the newspapers, and nothing was easier than for such of the traversers as were connected with the press to have produced their own reporters, to test the accuracy of any documents that had been read in court. Under all the circumstances of the case, it was impossible for the crown to deviate from the ordinary course by giving copies of the documents.

Mr. Moore—I feel I cannot call upon lordships to make an order. I must rest satisfied with what has been said by the crown.

Mr. Fitzgibbon then rose and submitted that the whole of Mr. Jackson's evidence ought to be struck out. Mr. Jackson had been brought here as a witness by the crown, but his reports were made up in a particular manner; and even on his own showing he had no means on earth for testing their accuracy.

Chief Justice—But, Mr. Fitzgibbon, surely this is not the proper time for making such an application?

Mr. Fitzgibbon—What time can be better than the moment when the witness leaves the table.

Chief Justice—Why, the witness has already been examined by three gentlemen.

Mr. Fitzgibbon—Yes, and my grounds for making this application are based upon that very cross-examination.

Chief Justice—I do not think we can now accede to that proposition. The matter is well worthy of consideration, but not at present.

Judge Perrin—I do not think it is in our power to strike out any witness's evidence.

JOHN BROWNE EXAMINED BY MR. HOLMES.

I reside in Nassau-street, and carry on the printing and stationary business; I have been long carrying on the business; It is at No. 36; I know Mr. Ray; I have known him for several years; I have heard of an association in the city of Dublin, called the Loyal National Repeal Association of Ireland; Mr. Ray holds the situation of secretary to that society; I was employed to do some printing work for that society; the association generally, through Mr. Ray, employed me; I have been four or five years doing work for the society; I have been paid

for the work I have done, except a running account now ; I was paid by Mr. Ray, and sometimes by a clerk in his office.

Have you received much money from time to time for the business you did ? I have.

Could you mention how much ; be under the sum ?

Mr. Fitzgibbon objected to the question, and submitted it would not evidence against the traversers.

The Chief Justice---Would it not be evidence against Mr. Ray ?

Mr. Fitzgibbon---Let him be asked what sum Mr. Ray paid him.

Mr. Holmes---I will ask my own questions.

Mr. Whiteside---Of course you will ; and I will object when I see fit.

Mr. Holmes (to witness)---I now ask you to state what amount you received from time to time ? I could not say.

Oh, be under ; have you kept any account-book ? I have ; the account was sometimes about 20*l.*, and-----

Mr. Whiteside---I object to any evidence of the contents of this gentleman's books, because they ought to have them here.

Mr. Holmes (to witness)---Have you not been served with a *duces tecum* ? I have.

Well now we will gratify Mr. Whiteside by getting read from your books.

Do you know to what amount you received from Mr. Ray, from time to time, for printing ?

Mr. Justice Perrin---Within what period ?

Mr. Holmes---Within the last two years ?

Mr. Whiteside---I am obliged to your lordship for putting me in mind of that. I submit this is not evidence. The first thing in this indictment is stated to be on the 1st of March.

Mr. Justice Crampton---I don't see, for my own part, the relevancy of the inquiry.

Mr. Holmes (handing a document to the witness)---Did you print that document ? I did, and for the Repeal Association. I printed it in the year '43.

The Deputy Clerk of the Crown read the document, which was the plan for the renewal of the Irish parliament.

[Another document handed to witness]---I printed that for the Association.

The Clerk of the Crown read the document, which was "Instructions for the appointment of repeal wardens and collectors.

(Another document handed to witness)---I printed that for the Repeal Association.

The Clerk of the Crown read it. It was a form for the appointment of repeal wardens.

(Another document handed to witness)---I printed that for the association.

The Clerk of the Crown read the document, which was a letter to the Secretary of the Repeal Association, explanatory of a new card of members.

(Another document handed to witness)---I printed that for the associa-

tion. It was a proclamation relating to the arbitration courts, headed with a harp and a crown over it.

The witness was then examined as to the printing of "The Address of the Repeal Association to the inhabitants of the different countries subject to the British Crown,"—"Rules to be observed by arbitrators in districts,"—"Arbitration notices," and others; all of which he admitted he printed. I printed four or five thousand copies of the paper called O'Callaghan's letter, one or two thousand of the notices of the sittings of the arbitration courts; two hundred of the rules to be observed by arbitrators, two or three thousand of the address of the association to the British public, and about two or three thousand of the summonses for those courts. I printed all those for the association, and I was paid for doing so. I printed some of them from manuscript, and others from extracts from newspapers. I was served with a subpoena to produce the manuscript. I searched for it, but I found very little. I found the paper which I produced, headed "Leinster for repeal."

Mr. Holmes—Did you print any placard from that? I think I did.

Mr. Whiteside—Thinking will not do—are you certain that you did? I cannot swear positively.

That answer will not do.

Mr. Holmes—Have you any doubt that you did. Where did you get the manuscript? I got it on the printer's office file. I think it probable that something was printed from it in my office, but I am not sure.

You have your account-books here; look at them and see if you have any entries of having printed from it?

Mr. Whiteside—The entries in his book may be very correct, but they cannot be evidence here.

The Chief Justice—He can look at his book in order to refresh his memory.

Mr. Holmes—Well, witness, have you any entry of that document?

Mr. Fitzgibbon—I object to the question; any entry he may have cannot be evidence.

Mr. Holmes—The fact is, these young men think I am not able to stand out, but I am—(laughter.) Witness, I repeat my question, have you any entry there relating to that document? I have two entries relative to the Mullaghmast meeting, but I cannot say whether they have reference to this document, or not.

Mr. Whiteside—You must not read them.

Mr. Holmes—Will you swear you did not print that document entitled "Leinster for Repeal?" I have a printed bill here with the same heading, of which I printed about two thousand for the association; and I was paid for it. The newspapers, I believe, called the Mullaghmast meeting a monster meeting. I printed documents in reference to other monster meetings, which took place near Dublin.

Mr. Holmes—Did you bring a document here that you printed relative to the Clontarf Meeting? The witness, after searching a bundle of papers, said—No; I find I have not the document alluded to. I think I printed some documents for the Donnybrook meeting; I have brought all the documents I have here in accordance with the subpoena served on me; some

of them were printed for the association ; all I have here were printed for the association ; I was paid for them.

It was rather a good job---wasn't it ?

Mr. Whiteside---I object to this (loud laughter). It is not a fit question at all. It's a mighty witty observation, though, and has nothing, to say to the case at all.

Judge Perrin---It is not a question at all---it is merely an observation.

Mr. Holmes---Well, Mr. Whiteside, if I stopped you in asking questions that are not relevant to the case, I would never have done. You ask questions which have nothing to do with the case at all.

Mr. Whiteside---True ; but that is on cross examination ; but you seem to forget that you are now on the direct examination.

A document handed witness, headed the " Revision of the jury list." I printed this, not for the association, but for Mr. Mahony ; I don't know if I was paid for it yet.

Mr. Holmes---Then hand it back to me.

Mr. Whiteside---Ay, that's the place it ought to be (laughter).

CROSS-EXAMINED BY MR. WHITESIDE.

Did you print these eleven documents ? Yes.

Did you print these three documents, headed " To the People of Ireland," &c. ? Yes.

Mr. Holmes here rose to ask the witness a question.

Mr. Whiteside---I object to asking the question, unless it arose from anything which fell from me on the direct,

Mr. Holmes---I omitted to ask the witness a question.

Mr. Whiteside---I object then to your asking it now.

Mr. Holmes---It is the only objection you have made (laughter).

The learned counsel then called on the clerk of the crown to have the document handed to the witness read *verbatim*.

Mr. Whiteside submitted that none of the documents could be made use of against the traversers.

Mr. Holmes said that every one of the traversers was a member of the association. The documents were printed for the association. The traversers attended meetings of that association, some of whom made speeches there, and the documents were clearly evidence against them all.

Mr. Whiteside---They are not evidence against Mr. Duffy.

Mr. Holmes---The documents were printed by the desire of the secretary, one of the traversers being the secretary, and were paid for by the association.

Mr. Whiteside---As to Mr. Duffy, the only distinct evidence against him is that given by the gentleman who saw him one day at Calvert's theatre.

Chief Justice---How often did he attend at the meetings, and hand in money ?

Mr. Whiteside---I don't care about that, my lord ; it is not worth a rush (laughter.)

Attorney-General---This is not the time to argue this question.

Mr. Whiteside---As the matter at present stands, your documents are not evidence against the traversers.

Judge Crampton---If any of these papers were handed in and read at the meeting they may be admitted here.

Mr. Whiteside---A question was raised yesterday, but the witness proved he got certain documents from the association, and therefore it was made evidence, but in this case it is different, and the documents cannot be received.

Judge Burton---All the traversers are members of the association, and the papers are issued by the association.

Mr. Whiteside---Oh, but when there are a large mass of papers.

Judge Burton made some observation which was inaudible in the gallery.

Judge Perrin---Your objection is, that the papers were not published; but I think they may be given in evidence. Here is a certain number of persons charged for meeting for a particular purpose, and they write and these documents, but do not publish them. I think, notwithstanding, that they may be handed in as evidence.

Mr. Whiteside---I am not at all satisfied on that point, my lord.

Mr. Fitzgibbon---The overt acts relied upon to support the charge of conspiracy arose in March, 1843, and surely acts done by the association three or four years ago should not be given in evidence against the traversers, with the view of supporting charges which are laid in the indictment as done subsequently. He knew that the overt acts were laid in the indictment under a videlicet; but the traversers had been furnished with a bill of particulars, with dates annexed, and the crown should be bound by it.

Chief Justice---What do you say to the document printed in October, 1843?

Mr. Fitzgibbon---Its being under the date of October, 1843, was not proof that it was then printed. It may have been post-dated.

Mr. Justice Perrin---The Mullaghmast placard was printed last year.

The court then said the documents might be read.

Attorney-General---Any documents already read we don't want to read again.

Mr. Justice Perrin---Hand up a list of the papers you mean to read.

The papers were then handed to the clerk of the crown, and he commenced reading a small pamphlet, entitled "Instructions for the Appointment of Repeal Wardens." After a few moments.

Mr. M Donough interrupted him and addressed the court on behalf of Mr. Fa rett. He said that the document then offered to be read was not proved to have been an act emanating from the association, or at any of the public meetings or banquets: it was not adopted; it had not been, at any of the meetings, and it was then attempted to give it in evidence, merely because the secretary for the association had ordered it to be printed. The indictment, after charging the traversers generally, in the first count, with certain overt acts, afterwards enumerates them. The traversers had called upon the crown solicitor for a bill of particulars, in addition to the overt acts charged in the first count of the indictment, and stated in support of the prosecution, evidence would be given in the speeches made, the resolutions moved and adopted, the meetings and dinners which took place, and also entries of proceedings made by the defendants, or by their direction, and the manner and order in which the persons comprising these proceed-

ings went there. It was clear, then, that the overt acts relied upon were the meetings and banquets, the speeches delivered at them, and the reports of the proceedings and resolutions of those meetings which were published in the newspapers. The book offered in evidence did not fall within the full and comprehensive words of the indictment, or of the bill of particulars. That book was not adopted at any meeting nor was it read at any meeting, therefore could not be given in evidence. The bill of particulars was very fair and full, and showed that the overt acts intended to be relied on were the dinners and meetings, also the speeches delivered at, the resolutions adopted at, the acts done, and the documents read at each meeting and dinner—that was to say at the meetings of the Loyal National Repeal Association.

The counsel for the crown objected to going through the meetings again at length.

Mr. M'Donough, Q.C.—I do so in order to make no omission, and to show the wide range which the crown have taken; they referred to an infinite variety of meetings. There is now produced in evidence a book which, on the part of my client, Mr. Barrett, I object to. The evidence can only be such as consists of overt acts, or acts done by the traversers. This does not come within the range of any of the classes of evidence which can be produced to sustain the prosecution. It does not come within the latitude of even the wide net spread by the indictment and the bill of particulars. The crown cannot travel out of the bill of particulars and the overt acts stated. In the case of the *King v. Hamilton, Carrington and Payne*, 454, the indictment was for conspiracy, and the court, on motion, held the traversers entitled to specific charges in writing to enable them to be prepared to meet them.

Justice Burton inquired what the traversers required to have stated in the bill of particulars?

Mr. M'Donough—We do not complain of the bill of particulars. The crown took care in their bill to include every particle of evidence which should be capable of being offered. In the case referred to a bill of particulars was given, and Justice Littledale, in making the order after conference with the judges, said—"I think you should show the goods were obtained by means stated in the first count of the indictment, or by what pretences." Here the crown amplified the first count, and by the bill of particulars added the several publications and speeches they would give in evidence. The grounds on which a party is entitled to a bill of particulars is, that they may be entitled to defend themselves. Justice Littledale considered that when a party, in furnishing a bill of particulars, stated he would not be bound by them, and went into other evidence, that the court should give their opinion as to admissibility of such other evidence. Whereas here the crown have given a bill of particulars of such magnitude and amplitude that it would amount to a violation of the first principle of justice to permit other evidence being given. In the case cited, the court ordered the attorney for the prosecution to amend the bill of particulars. This is according to the first principle of law. The particulars ought to be full and distinct, and it ought not to be merely a blind general charge, but should particularise the several acts for which these gentlemen were to be tried; and I hold, until your lordships decide the contrary, it would be



contrary to justice to permit the crown to travel out of their bill of particulars and offer evidence against Mr. Barrett, who is not a member of the association, having only attended a dinner, by means of a multitude of reports of proceedings in various parts of the country. I contend the evidence ought not to be received. On the part of Mr. Barrett I protest there is no principle on which it ought to be admitted. There is no difference between this and any other case. Though the bill of particulars is minute, and at the same time comprehensive, it does not comprise this class of evidence. If permitted, every book, every document connected with this association would be evidence against Mr. Barrett.

Attorney General---There is one observation which has fallen from Mr. M'Donogh in which I entirely concur. It is, that there is no distinction between this case and any other; and I shall proceed to satisfy the court that on abundance of principle this evidence is admissible. I deny the principle for which Mr. M'Donogh contends, that in cases of conspiracy you are to state in the bill of particulars the evidence you are to rely on. The rule is, you are to set out the overt acts so as to furnish the party with the facts charged against him. This did not rest on his assertion alone, but was grounded on the decision of cases of high treason, where things were more strict than in case of conspiracy. The learned gentleman then quoted from Mr. Philips's Book on Evidence, page 492 of the last edition, which said that such overt acts could not be given in evidence unless expressly laid in the indictment; but, still if conducive to the truth of any of the overt acts, it may be admitted in proof of such overt acts. With this view the declaration of prisoners and their seditious language were admissible as showing the nature and objects of the conspiracy.

Mr. Justice Burton---The bill of particulars does not proposed to state any evidence

The Attorney General---It was in fact a substitution of the overt acts as laid down in Russell's Criminal Law. It was now the custom to furnish a bill of particulars of the charges. It was the custom of the Queen's Bench in England to give a bill of particulars of the charges. It was a substitution for the overt acts, which went to prove the conspiracy, and if the overt acts were on the face of the indictment, or if the indictment was an overt act in itself, they were at liberty to prove it, if conducive to prove another overt act laid in the indictment, as in the case of the King v. Watson. What was the nature of the bill of particulars in this case? There were not only monster meetings set forth on the face of the indictment, but also meetings of the Repeal Association, and other acts. After the indictment had been framed it was thought advisable to give evidence of those facts, and a bill of particulars was framed with a view of enabling to prove other specific facts not in the indictment. They did not set forth on the face of the bill of particulars the issuing of repeal cards to members, and diploma to repeal wardens. These related to the general plan of the association, and it was never thought of to set forth those acts. The learned gentleman here quoted Starkie, page 1097, to show it was not necessary. By this evidence they wanted to show the general features of the association; to show the bond by which the members of the society were bound together---what instructions the officers received, and acts connected with

the constitution of the society, not contained in the bill of particulars. He apprehended the law on the subject was quite settled, and that it was unnecessary to set out the evidence from beginning to end. They had given that general information which was necessary to prevent surprise, and this was a document relating to the general constitution of the association, and was not an overt act at all. He hoped, therefore, the court would not judge differently in this case from any other, and would not allow the objection.

Mr. Moore said he appeared on the same side as Mr. M'Donough, and he would offer very few observations, indeed, upon the point of law. What was the nature of the evidence offered and objected to? The evidence was, that Brown printed those documents, and that he was paid by the secretary of the association. He was not aware that Brown knew anything further than that. There was no evidence of the time or circumstances attending the publication of them.

Attorney-General.—They were printed during 1843.

Mr. Moore knew that, but it was begging the question to refer to the document itself for that fact.

Mr. Justice Burton—I think the question to be argued is whether the document is good in evidence, not being contained in the bill of particulars.

Mr. Moore, Q.C., said it was so; but he thought it right to explain the nature of the evidence. They were left in doubt as to the time of printing those documents, except in so far as they related to year 1843; but if admitted, they might affect the traversers for something done subsequently, which would be unjust to them. In the first place, what was proposed by the bill of particulars to do? In addition to several other matters and things set forth in the first part of the indictment, it was intended to do so and so. In the first count of the indictment there were a great many overt acts alleged, consisting of meetings, speeches, and publications, as set out in detail most specifically as overt acts; then in the bill of particulars furnished by the crown, they intended to give other matter as evidence. It was not pretended that any mention was made in any one of the overt acts set out in the first count of the indictment, or any other of the counts, of the publication of the several documents proposed to be read in evidence. There were three distinct grounds on which evidence was to be given. The dates, times, and matters relating to certain proceedings. The evidence now proposed did not come within any one of them, and unless the bill of particulars was to be treated as nought, he contended, with great respect to the court, that the crown was not entitled to give this evidence. Supposing, as suggested by his friend, Mr. M'Donough, that they had another newspaper, or another meeting, or anything else, of which no notice had been given, he submitted that the crown did not put that in evidence.

The Solicitor General, in reply, on behalf of the crown, said that as he understood the counsel on the other side, there were two arguments put forward by them in support of the motion, one of which was, that the evidence offered was not set out as an overt act in the indictment, nor stated in the bill of particulars which had been furnished to the traversers. But the argument on the other side went upon this fallacy, that the crown

were bound to furnish the traversers, not merely with a statement of the charges against them, but the particular evidence in support of each charge—a very novel doctrine. It had been distinctly stated that the proceedings at certain specified meetings of the association would be relied on in support of the charge of conspiracy, and at some of those meetings so enumerated repeal wardens had been appointed. Was it not perfectly clear that the instructions given to those repeal wardens, instructions printed by order of the association, were admissible in evidence under those circumstances.

Judge Perrin remarked that it was not contended that if there was not a bill of particulars, this would not have been evidence; but having furnished a bill of particulars, that was intended to give an enumeration of the several matters which could be relied on by the crown.

The Solicitor General submitted that the attention of the traversers had been specifically pointed to the fact that the appointment of repeal wardens, and the mode of doing so, would be relied on in proof of the conspiracy, and under the count of the indictment the evidence was admissible. That count charged that they did on the 1st of March, 1843, “and on divers other days and times before and after that day, and at divers other places in divers other parts of Ireland,” seek to carry on the alleged conspiracy by meeting, collecting money, making seditious speeches, and adopting resolutions. The document in question specified the duties of the wardens, and under these instructions parties had acted, who it was in evidence had been appointed at meetings of the association, expressly named, so that the traversers were quite aware of the nature of the charge.

Their lordships having consulted for a short time,

The Chief Justice said that he did not say but the point had been argued very ingeniously and learnedly, and at one time he was somewhat taken by the argument, but then he did not thoroughly understand what was the nature of the indictment. Any one who looked at that indictment would see that a particular overt act was charged, and the count specifies, as part of the overt act of the conspiracy so charged, the levying of money throughout the country for the purposes of that illegal association. Now, surely, it required no specification in support of that charge, as it could be said that the parties charged with the appointment of the repeal wardens for the purpose of collecting this money could not be subjected to this indictment. It could not be said that the traversers had been taken by surprise, so as to be unable to prepare for their trial on the allegation. They had had abundant notice, and he could not see any pretence for the assertion that that they were taken by surprise.

Mr. Justice Burton said he was certainly under a misapprehension at first, as he did not understand, nor was he made aware of the true nature of the objection in this case. He did collect that if a party were entitled, under the terms of an indictment, to particular notifications, if those notifications were made in a manner so as to cloak the real matters intended to be relied on from the knowledge of the parties, it was the duty of the crown to see that the accused were not taken by surprise. In this case there had been a great deal of documentary evidence, and it more than once struck him that it would be a matter of accommodation, and of reasonable accommodation, if the crown furnished the

traversers' counsel with copies of such documentary evidence as they intended to give, in order that they might be either prepared to meet the kind of evidence, either with evidence in answer, or, at all events, that they should not be surprised by it. The learned judge concluded by saying this was not a case in which the traversers had been led into any misapprehension, and that the document ought to be admitted.

Mr. Henn begged, before judgment was finally pronounced, to be allowed to call the attention of the court to the overt acts.

Chief Justice—Why did you not speak before two judges of the court had given their judgment?

The Attorney General hoped that Mr. Henn would observe what Mr. M'Donough had said, that this case was not to differ from other cases.

Mr. Martley—Particularly when Mr. M'Donough said the case was not at all argued.

Judge Crampton then proceeded to deliver his judgment. He said the objection appeared to him to arise altogether from confounding the charge in the indictment with the evidence to be given in support of the indictment. He did not think the crown was called upon to show that the specific matter was to be found within the body of the bill of particulars. The bill of particulars was to show the nature of the charge he was to meet, but not any portion of the evidence. That was the principle observed, and that principle was sufficient to rule this case. Mr. M'Donough had cited an important case, which, in some of the language of it, tended to support the argument that he forcibly and properly addressed to the court; but he (Judge Crampton) had looked to that case, or rather to the decision made by Mr. Justice Littledale in that case, which showed the distinction taken by the Attorney General to be the distinction always applicable to such cases, and the distinction which ought to rule the present case. What was the nature of the order made by Mr. Justice Littledale? The party in that case was ordered to deliver a particular statement or specified charge in writing, but not a particle of evidence was he called upon to give, but he was merely called upon to state the particulars of the charge. Again, he recollected the case of the King v. Hamilton. That was a charge of obtaining goods under false pretences, and the party applied for liberty to give evidence of a false pretence different from any of the false pretences set out in the indictment. In this case there was a general count, and he would suppose that this particular document was intended to be used in support of the general count. They had evidence of repeal wardens being appointed on a particular day in this association. They had no evidence of any instructions given to those persons, and the question was, whether the instructions emanating, he took it for granted, from the association—whether the instructions here in print, and printed by order of the association, and paid for by the association, through their secretary—whether these instructions were admissible in evidence, in order to support the general count, making it the act of the association to which he adverted—namely, the appointment of repeal wardens. Now, this document which he held in his hand contained no new charge. If it did, and the traversers had been able to establish that by the introduction of this document, a charge different from any stated on the face of this indictment, coupled with the bill of parti-

culars, had been introduced, then he thought the objection ought to prevail; but this question was, if this document opened a different charge, or whether it was merely evidence in support of one of the charges already opened. It appeared to him to be quite germane to the matter here. Evidence had been given of the appointment of repeal wardens. It was important to show the nature and constitution of that body. If the appointment of repeal wardens be an act material for the consideration of the jury in this case, it was also material to know the duties of those repeal wardens; not for the purpose of making a new charge, but to sustain the charge that was on the face of the indictment. This was signed by one of the traversers, was an act of one of the traversers; it was signed by Daniel O'Connell, chairman of the committee, and printed by the association, of which he is a leading member, through the secretary, and paid for by the association, through the same secretary. Now, suppose there was no printed document before them, but that witnesses were brought up to prove that the gentleman, whose name was at the foot of it, had given parol instructions outside the Corn Exchange to the repeal wardens, with reference to the duties they had to perform, would any person tell him that those instructions would not be evidence against the person who gave them? It manifestly would be evidence, and if, as parol testimony, it would be evidence when given in scriptus. It appeared to him to be clear evidence, unless the parties had undertaken to limit himself, in his bill of particulars, not to give evidence except of what was in the bill of particulars. In conclusion he declared it to be his opinion that the document was admissible in evidence.

Judge Perrin said the difficulty in this matter appeared to arise from the manner in which the bill of particulars was framed, and there was no question that, if there was no bill of particulars, this would be clearly evidence to support the counts. An authority was cited by the attorney, to show that it would be evidence in the general counts in the indictment, if not on the special count. The object of the bill of particulars was to narrow the field of evidence, and confine the parties to what is there stated; but from the way in which the bill of particulars was framed, they were under the disadvantage of not knowing to what the parties were to be confined, or to what the parties were to go to. After referring to the arguments on each side, and the peculiar frame of the bill of indictment, he continued—This was a printed document, proved to have been printed at the instance of one of the traversers, who was proved to have been the secretary association, and to have paid for it out of the funds of the association, therefore applying that to the overt act to which they had been referred, as the other members of the court were of opinion, to rest it on that overt act it should be admitted.

Mr. M'Donough said it had been doubted by some persons whether a bill of exceptions lay in a case of misdemeanour, and he wished to inform the court that it was the intention of the counsel for the traversers to take a bill of exceptions in this case.

Mr. Martley—You can do that without telling us.

Mr. M'Donough—I never knew a bill of exceptions to be taken yet without telling it.

Mr. Bourne, junr., then read the following document :—

**“INSTRUCTIONS FOR THE APPOINTMENT OF REPEAL WARDENS AND COLLECTORS OF THE REPEAL FUND, THEIR DUTIES, &c ,**

“ N.B.—Each person having paid up one shilling, is entitled to be enrolled as an associate repealer.

“ Each person having paid one pound, is entitled to be admitted a member.

“ Each person having collected twenty-shillings, is entitled to be admitted a member (provided he is himself a contributor of one shilling or more to the repeal fund.)

“ Each person subscribing ten pounds, is entitled to be enrolled a volunteer.

“ Each person collecting ten pounds, is entitled to be enrolled as a volunteer (provided he be himself a subscriber of one shilling or more to the repeal fund.)

“ In each and all of the above cases, the individual must be moved and seconded at a public meeting of the association.

“ Repeal wardens and collectors of Ireland !—upon you depend the success of the great constitutional struggle in progress for the restoration of our country's legislative independence. In your hands are placed the future destinies of Ireland. If you neglect your duties Ireland must continue in the capacity of a wretched and ill-treated province. But, if you discharge those duties with zeal and active patriotism, Ireland shall be again a nation.

“ It is for you, then, repeal wardens and collectors, to answer this plain, but all important question :—Shall Ireland continue to be an ill-used province ? or, shall Ireland be again a nation ! possessing a parliament, freely chosen by her people, and making laws for the protection and benefit of the eight millions of her brave, moral, and industrious inhabitants ?

“ Speak, then, repeal wardens and collectors ! Will you, through apathy, suffer your country to continue what she is—a neglected and pauperised province ? when it is in your power, by constitutional exertion alone, to elevate her to the position and dignity of a happy, contented, and prosperous nation ! !

“ In order effectually to repeal the baneful act of union, there is only one thing necessary to be done, and that one thing is—to perfect the legal and peaceable organisation of the great majority of the Irish people, and to have their names enrolled in the books of the Loyal National Repeal Association. Such was the simple but successful plan whereby Catholic emancipation was extorted from the grasp of a reluctant British ministry !

“ We have told you that there is only one thing necessary to be done, in order to enable Irishmen to regain their legislative independence ; and that one simple thing is—to have Ireland legally and peaceably organized !

“ We shall now proceed to point out the mode by which this constitutional organisation is to be completed ; and for this purpose we shall consider, in the first place, what are necessary qualifications of repeal wardens and collectors :—

“ First—And above all things—The repeal wardens and collectors should be men of good moral character.

" Secondly---They should enjoy the respect of their clergy, let them be of what religious denomination they may.

" Thirdly---They should possess an intimate knowledge of the district to be collected by them.

" Fourthly---They should be men determined to exert themselves strenuously in enrolling members and associates.

" Fifthly---They should be persons disposed to argue calmly with such as refuse their co-operation in the repeal cause at present---but to avoid all strife, and never to reproach those who differ from them in opinion.

" Sixthly---They should be persons who understand the principal arguments in favour of repeal---who may be able to explain to those who may want information on the subject, the strictly legal means by which repeal is to be gained---the advantages that should result to Ireland from the re-establishment of her native parliament---what has been the rapid decline of Irish trade and manufacture, and what the increase of Irish poverty and destitution, since the baneful act of union was forced upon this country against the express will, and in opposition to the decided interests, of its inhabitants.

" We shall next describe the mode in which wardens and collectors are to be appointed.

" The first mode we recommend, and indeed the wisest and best, is to have proper and efficient persons recommended to the association by the parochial clergy, for the various streets, townlands and districts, into which their parishes are to be divided.

" Secondly---Should the clergy not interfere, the persons to act as wardens should be then recommended at a public meeting; but in either case their names must be transmitted to the Repeal Association in Dublin, and their appointments regularly moved, for the National Association alone is competent legally to appoint the wardens---other persons, bodies, or meetings may recommend, but they can't appoint; the power of appointment to these offices rests with the association alone legally; but every reliance may be had that, unless for some very strong reasons, the recommendation of the persons named will be confirmed by the association. When each repeal warden is thus duly appointed, he will receive a written notification from the association, and when he shall have completed remittances to the amount of 5*l.*, will be presented with the handsome diploma recently designed.

#### " DUTIES OF THE REPEAL WARDENS.

" The first duty of the repeal wardens is, to divide the parish or place into districts of convenient size, and each to take upon himself the care of one district.

" The second duty of each repeal warden is, to appoint as many collectors as he may deem necessary to act with him, and to collect the repeal fund regularly within his district, from each individual willing to contribute a farthing a week, a penny a month, or a shilling a year---taking care to make every person favourable to the repeal understand that, unless he contributes to the amount of a shilling a year, his name cannot be enrolled as a repealer, and therefore he will be calculated upon by the enemies of Ireland as against the repeal!

"The third duty of each active repeal warden is to supply the place, so far as he possibly can, of any repeal warden who shall, through illness or other cause, neglect having his district collected, and to complete the collection in such neglected district as though it were his own, reporting such neglect to the association.

"The fourth duty of the repeal warden of each parish or district will be, to select the most efficient amongst them as an inspector. In every case where one or all of the parochial clergy can be prevailed on to act in that capacity, they should be selected without hesitation. But should the parochial clergy be disinclined to act, the wardens ought then name some zealous and intelligent person of their own body to act as such inspector, always taking care to transmit the names of such individuals in the first instance to the association for appointment.

"The fifth duty of the repeal warden is to transmit to the secretary of the Repeal Association in Dublin, if possible weekly, and if not weekly, at as short periods as possible, the amount collected, and the names and residences of the contributors, that they may be enrolled as associates, or admitted members, as the case may be, and their cards duly forwarded accordingly. The wardens are to be careful in keeping copies of these lists, to facilitate the collections.

"The sixth duty of the repeal wardens is, to procure signatures to the various petitions agreed to by the association, or by any repeal meeting, and to take special care that none but genuine signatures are affixed thereto; or when persons cannot write, to obtain their authority for affixing their names; and also to transmit such petitions either to the secretary of the Repeal Association in Dublin, or to the member of parliament fixed upon to present them.

"The seventh duty of the repeal wardens is, to promote the registry of parliamentary, municipal, and poor law electors, on the liberal interest, by ascertaining the names and qualifications of all such persons, not registered, who are qualified, and inducing them to take the necessary steps to have their franchise established.

"The eighth duty of the repeal wardens is, to promote the encouragement of Irish manufactures in their several districts to the exclusion of all foreign-made articles.

"The ninth duty of the repeal wardens is, to take care that there shall be transmitted from the association to each locality a weekly newspaper for every two hundred associates, or a three-day paper for every four hundred enrolled in such locality, as the case may be. The sum of ten pounds collected and forwarded to the association, entitles the repealers of the district whence it comes to a weekly paper for the entire year *gratis*; and the sum of twenty pounds entitles them to the *Pilot* or *Evening Freeman* newspapers for the same period, if they prefer either to two weekly papers.

"The tenth duty of the repeal wardens is to have the newspapers to which each parish or district may be entitled put into the hands of such persons as will give the greatest circulation to their contents; so that each paper may be read by, and its contents communicated to, as many people as possible.

"For the purpose of circulating the proceedings of the association and



other repeal news, by access to the newspapers, and also for the purpose of transacting general business, such as arranging accounts, paying in subscriptions, transmitting the receipts to Dublin. &c., we would recommend that wherever there is a sufficient number of repealers enrolled, the wardens and collectors should provide a convenient room to meet in. Such a room can be hired for a mere trifle weekly in any town or village; but the wardens are in every such case to consult the association in Dublin previously.

"The office of repeal warden, though highly honourable and eminently useful, must be purely ministerial. They must not be, or be considered as representatives or delegates. It is plain that, in point of fact, they are not so. But they must not assume or pretend to be so, nor must any of them violate the law in any respect. We are quite satisfied that nobody will be recommended for the appointment but one who is thoroughly convinced that whoever violates the law strengthens the enemies of Ireland: this is an axiom of the most undoubted truth. It ought, we repeat it, to be engraved on the mind of every repealer that 'whoever violates the law strengthens the enemies of Ireland.'

"The repeal wardens are not to be, nor to consider themselves to be, nor to act as, a separate and distinct body from the Repeal Association, but are, in fact, local committees of that body, and subject to its control. Neither are there to be established separate associations or branches distinct from the association in Dublin. The Loyal National Repeal Association could not act in connexion with such separate bodies, which thus, instead of being an assistance to the cause of repeal, would become a source of weakness by division.

"The eleventh and last duty we shall point out to the repeal wardens is one of the greatest possible importance. It is to use all their influence and timely exertion to have all meetings perfectly peaceable, and on all occasions to prevent riot or disorder of any kind. Above all things they should endeavour to detect and bring to justice any wretch wicked enough to venture to administer a secret oath. He who would administer a secret oath would likewise sell his unfortunate victim the moment after he succeeded in duping him to take it. The repeal wardens must also prevent the formation or continuance of any secret society whatsoever.

"Remember that 'he who commits a crime gives strength to the enemy.'

"In conclusion, we call firmly upon the repeal wardens to do their duty—to perform the glorious task allotted to them. The success of the repeal agitation depends principally, if not entirely, upon their exertions. If we can get repeal wardens in every parish to act energetically, and, above all, perseveringly, the repeal of the union is certain.

"Let every repeal warden recollect that upon his own individual exertion may depend the greatest possible quantity of good to his native country.

"The office of repeal warden is one of the highest utility, and of the most honourable importance, but of course gratuitous.

"Repeal wardens, do your duty, and Ireland is free!

"DANIEL O'CONNELL,  
Chairman of the Committee.

"Corn-Exchange Rooms, May, 1843."

Mr. Forde begged that Mr. Bourne would mark the documents given in and hand them back.

Mr. Bourne said he could apply to the court on the subject.

Mr. Forde said he did not wish to disturb the court by applying to it, and the officer ought to know his own business.

Mr. Bourne, jun., was then proceeding to read the description of the repeal card, but was interrupted by

Mr. McDonough who said they objected to the reading of this document, and they did so on infinitely stronger grounds than in the former case, but there was no overt act to which this referred, not a word of which required explanation from it, nor did it relate to the collection of money; and he submitted to their lordships that it ought not to be received. In the present singular case of conspiracy the crown had declared their intention not to push the charge further than at common law it ought to go, and their lordships must know that the rule of law in such cases was that the act of one defendant was not to be construed as the act of all unless it was an act that had been performed to attain the common end of the alleged conspiracy. The act of one defendant in a case was, beyond doubt, evidence against himself, but it could not be regarded in point of law as the act of all his associates, unless it had been expressly designed and executed for the furtherance of the common object. No evidence had been adduced to show that the document now under discussion had been agreed to any meeting of the repeal association; it was no transaction of the association, and merely purported to be an explanation of some other document which was not as yet in evidence before the court.

It was merely a piece of printed paper, which appeared to have been printed by Mr. Browne, the stationer of the association, in compliance, as was stated, with Mr. Ray's directions; and therefore it was to be produced in evidence against his client, Mr. Barrett, or any other respectable gentleman who might happen to be a member of the Repeal Association! The question at issue was one which affected all associations, no matter whether political or otherwise; for if the secretary of any society were to go to a printer, and direct him to print a letter explanatory of a certain document, could it be held that such an act of the secretary was to be evidence *per se* against all the members of that society? If evidence had been adduced to show that the association ordered the card to be issued, and with it the letter of explanation, then indeed it might perhaps be contended that the document fell within the bill of particulars; but no such evidence had been adduced, and he accordingly protested against the document being received. It was not now receivable in evidence, and on the first ground of objection it should be excluded; and he further submitted that because it was not specially adverted to in the bill of particulars, or in the overt acts stated in the declaration, it should not be received. They should enter into a wide sea of evidence indeed, if every printed paper which one man issued, or caused to be issued, were admitted.

The Attorney General said that he submitted that in this case the document in question should be read and received in evidence. It was quite unnecessary to repeat the arguments be used with respect to the former document, and the members of the court were of opinion that those

arguments were well founded. This document was not of itself relied upon as an overt act.

Judge Crampton—Is there any evidence of speeches or resolutions passed at the association in reference to this document or letter of Mr. O'Callaghan's?

The Attorney General said that there was in the bill of particulars reference made to one of the newspapers, the *Nation*, in which that document was printed word for word and letter for letter.

Mr. M'Douough—The publications in the *Nation* are not yet before the court.

The Attorney-General said if reference was made to the bill of particulars, the *Nation* of a particular date would be found embraced, and everything that was contained in it from beginning to end was of course part of the indictment, and therefore he relied on the former decision. That authority could not be controverted, and he would respectfully deny that on such a charge of conspiracy as the present it ever yet was heard of to require of the crown to furnish a list of their documents. According to the law of conspiracy they might be called upon, if there were general grounds in their indictment, to furnish a bill of particulars; but it was never heard of that they were obliged to furnish a list of their documents as their evidence; moreover where the document was not to be relied on of an overt act in itself. The learned gentleman then cited the case of the *King v. Watson*, from the state trials, in support of his argument.

Judge Perrin—What is the meaning of this reference to the bill of particulars?

Attorney-General---The meaning of it is, that the first count in the indictment contains an allegation of the publication of a certain newspaper in which the document printed.

Mr. Justice Perrin---The indictment states that "in addition to several matters and things set out in the first count, it is intended to give evidence of resolutions passed, speeches made, acts done, and letters and other documents read at the meeting."

Attorney General--Precisely. What are the "matters and things?" The overt acts; but independent of that, he (the Attorney General) relied on the ground that the document existed as regarded the association, and has reference to the members' cards, and it was the intention of the crown to give evidence of that card. The documents and cards were printed by the last witness examined, and this was done under the direction of Mr. Ray, one of the traversers, and secretary to the association, he being the accredited agent of the association, and the cards and documents were paid for by him to the last witness. They offered the document in evidence against all the traversers as it was paid for by Mr. Ray the secretary of the association, of which they were all members. And further the fifth article set down in the document for the duty of a repeal warden, stated, when a warden was admitted his card would be at once duly forwarded to him. Besides this, the document referred to the members' cards, which was connected with the receipt of money, and this was set out in the last overt act in the first count of the indictment, and on these grounds he submitted they were entitled to have the document received in evidence against all the traversers.

Mr. Henn would offer a few remarks in support of the objection to the document being given in evidence. He did not think it necessary to discuss the point whether it was admissible against one it would be evidence against all the traversers. But he would submit that as regarded the present document so far as the evidence went as yet the document was inadmissible. There was a document referred to in the bill of particulars, but that had no connexion whatever with the present document, and as far as the newspapers were referred to in the indictment, it would be time enough to argue that question when the newspapers were offered in evidence, and then the question would arise whether such documents were admissible or not. What the Attorney General has said is only a repetition of his former argument; that was, that one overt act may be given in proof of another. He would not controvert the great principle; but in the present case the crown was bound by the particulars which were furnished, and the argument of the Attorney General amounts to the proposition that a bill of particulars has no effect at all. He had in argument shown what overt act the document was intended to prove. He (Mr. Henn) said there was no overt act charged which the document proved. He admitted that the crown need not have furnished the bill of particulars, but it had been furnished by the order of the court, and they must not travel out of it. He did not know where the Attorney General found the precedent for it. The speeches, documents, acts, and letters, the several meetings, and the manner of proceeding to and from them, were enumerated in it. It is said in plain terms, evidence will be given of these proceedings and acts only. The object of a bill of particular is to apprise the parties of the evidence they have to meet, yet we are told the crown ought not to be called on to state the evidence on which they are to sustain their case. How are those overt acts stated in the indictment? (Counsel here read the portion of the indictment with reference to the receipt of divers sums of money from her Majesty's subjects, and also persons dwelling in other countries, and the inflammatory speeches.) How can it be contended this mode of stating in the indictment enables them to give such evidence as this? How can they give in evidence receipts of sums of money in this way? As well might it be contended that the mode of charging the traversers with uttering seditious speeches at certain places would enable the crown to give evidence of speeches generally. If so, what was the use of a bill of particulars? How then can they give evidence of receipt of money generally.

Solicitor General—This is the same objection as before, only put forward with more ingenuity. It is confessing matter of charge with the evidence in support of the charge. The test of Mr. Justice Crompton is a good one. Is this material and applicable to the matter charged in the indictment? We allege that there are several traversers charged with being members of an unlawful confederacy having a special object in view, called on to meet this charge. Here is a court charging them as members of a confederacy with unlawful objects. I establish an act committed by one of these co-conspirators in furtherance of their common object. It was an act of Mr. Ray, the secretary of the association, which act was not in itself evidence of the objects which the indictment said the confederates had in view; and was he to be told that this evidence, which

was traced to one of the traversers, he was not at liberty to offer to the jury. It was, in fact, the same question which had been argued awhile ago.

Mr. Justice Perrin—Did you give the card in evidence?

The Solicitor General—No, he did not, but he proposed to do so. He alleged the document was evidence of the objects of the association, and that if there had never been a card in existence, nevertheless it was evidence *per se*. The learned gentleman then referred to the passage quoted from Mr. Phillips' book by the Attorney General, respecting the rule of law on the subject, and also to the case of the King *v.* Watson, also referred to by the Attorney General. He cited the case of the prosecution of Thelwall, in which a document read by Thelwall was admitted as evidence of an overt act. If the name of Ray were substituted for Thelwall the cases were precisely the same.

The Chief Justice said that when analysed the present question resolved itself into the same as that on which they had just decided. He did not see any ground of difference between the two cases. If there had been no bill of particulars furnished, could it have been alleged that the evidence in question could have been sustained in support of the special count of the indictment? No man could for a moment question but that it would have been admissible evidence under those circumstances, and inasmuch as the bill of particulars had been given only in respect of the general counts, he could not see why the present documents should not be admitted as evidence in respect of the special count, which was in no-wise affected by the bill of particulars. He was in favour, therefore, of receiving the document; for without meaning to conjecture what might be the tendency of the evidence, whether for or against the traversers, he held that the right of the crown in this respect was quite independent of the bill of particulars. It could not be said that the evidence was a surprise on the traversers, for it came under the special count.

Judge Burton and Judge Crampton signified their concurrence in the judgment of the Lord Chief Justice.

Judge Perrin also expressed his concurrence in the judgment. He was of opinion that on the indictment, as originally framed, this document was clearly admissible evidence. He admitted, however, that it did not come within the particulars specified in the bill of particulars, but it being understood that that bill related to other counts in the declaration, it could not affect the rule with respect to the first count. The rule for granting a bill of particulars was this, that it was to be given in cases where the necessity for such a document arose out of want of definitiveness in the record, and the party had only himself to blame for not making the rule specific in the first instance to what extent the particulars were to go. It was upon those general grounds, and more specifically upon the ground that the bill of particulars did not affect this case, that he concurred in the opinion that the document ought to be admitted; but it should only come in under the first count, which was the only count in which overt acts were laid.

The Clerk of the Crown then read the documents, after which (at half after six) the court adjourned to this morning at ten o'clock.

## SIXTH DAY.

The Right Hon the Lord Chief Justice, the Hon Mr. Justice Crampton, and the Right Hon Mr. Justice Perrin, took their seats upon the bench at ten o'clock precisely, immediately after which the Deputy Clerk of the Crown having called over the jury and traversers, who respectively answered to their names, the case for the prosecution was proceeded with.

The Chief Justice observed that Mr. Justice Burton was prevented by a severe cold from coming down to court and taking his seat on the bench,

Mr. Hatchell said, that in consequence of what had fallen from his lordship, namely, that Judge Burton was unable to attend court owing to indisposition, he, upon behalf of the traversers, in connexion with the other counsel engaged for them, objected to the trial being proceeded with but before a full court.

The Chief Justice—We will take a note of your objection, Mr. Hatchell.

Mr. Hatchell—That is all we want, my lord.

The Attorney-General remarked that no difficulty whatever could arise from the absence of his lordship, as it was expressly decided in the Bristol riot case, "*the King v. Finney*," that where one of the judges took ill, the trial could be proceeded with in his absence.

The Chief Justice---Proceed with the case, Mr. Attorney-General.

The Attorney-General then observed that there was a document proved by Mr. Browne, the printer, on Saturday, the entire of which he would not require to have read, as it had been proved and read by one of the witnesses already examined, from the manifold copies. He alluded to the plan for the renewed action of the Irish parliament, however, if there was any wish expressed he would not object to its being read again.

Mr. O'Connell—Read the whole of it.

Judge Crampton---What can be the use of reading a document which we have on our notes already?

Mr. O'Connell---Only part of it, my lord, has been read already, and is a very important document.

The Attorney-General---Then read it fully.

The Clerk of the Crown then read the report of a committee of the Repeal Association, signed "Daniel O'Connell, chairman," for the renewed action of the Irish parliament, which was as follows:--

**"PLAN FOR THE RENEWED ACTION OF THE IRISH PARLIAMENT,**

"Firstly—The Irish people recognize, acknowledge, maintain, and will continually preserve and uphold upon the throne of Ireland her Majesty Queen Victoria, whom God protect! Queen by undoubted right, and by hereditary descent, of Ireland, and her heirs and successors for ever,

"The people of Ireland recognize, acknowledge, maintain, and will continually preserve and uphold all the prerogatives of her Majesty and of her heirs and successors, belonging to, and inherent in, the imperial crown of Ireland; and they will true allegiance bear, pure, undivided, and undivisible to her Majesty, her heirs and successors for ever.

Secondly---The people of Ireland acknowledge, and will maintain and preserve for ever the privileges, hereditary and personal, of the peers of Ireland, together with the legislative and judicial authority of the Irish House of Lords, and the exercise of the prerogative in augmenting and limiting the peerage, as the same did of right exist before the year 1800.

"Thirdly---The people of Ireland do firmly insist upon the restoration of the Irish House of Commons, consisting of three hundred representatives of the Irish people; and claim, in the presence of their Creator, the right of the people of Ireland to such restoration.

"They have submitted to the union as being binding as a law: but they declare solemnly that it is not founded on right, or on constitutional principle, and that it is not obligatory upon conscience. They agree with the Tory Attorney General, Saurin, that the only binding of the union is the strength of the English domination. They also agree with him that 'resistance to the union is in the abstract a duty, and the exhibition of that resistance a mere question of prudence.' They will therefore resist the union by all legal, peaceful, and constitutional means.

"Fourthly---The plan for the restoration of the Irish parliament is as follows:—1stly. That the county members should be increased to 173, in the manner hereinafter specified. 2ndly That there should be 127 members returned from cities and towns, in the manner hereinafter mentioned. 3rdly. That the county of Carlow, being the only county in Ireland with less than 100,000 inhabitants, should get an increase of one member, so as to have three representatives; that every other county having above 100,000 inhabitants should get an increase of two members.

"That every county ranging above 150,000 inhabitants should get an increase of three members.

"That every county ranging above 250,000 inhabitants should get an increase of four members.

"That the county of Tipperary, having more than 400,000 inhabitants, but less than 500,000, should get an increase of eight members.

"That the county of Cork having more than 700,000 inhabitants, should get an increase of ten members.

"Fifthly---With respect to the town and cities. It is proposed that the city of Dublin, having more than 200,000 inhabitants, should have eight representatives; four for the parts north of the Liffey, and four for the parts south of the Liffey.

"That the University of Dublin should continue on the basis of its present constituency, to send two members.

"It is proposed that the city of Cork, having more than 100,000 inhabitants, should have five members.

"That the city of Limerick and town of Belfast, having respectively, more than 50,000 inhabitants, should send four members each.

"It is proposed that the town of Galway, and the cities of Waterford and Kilkenny, having respectively more than 20,000 inhabitants, should send each three members to parliament.

"That other towns having 7,000 inhabitants should each send two members to parliament; and that 49 other towns next highest in the ratio of population should send one member each.

"The following schedule of the different places to return members to

parliament, will show their relative population and the number of members to be assigned to each :—

**COUNTIES**—Antrim, population 316,900, members 6; Armagh, 220,134, 5; Carlow, 81,688, 3; Cavan, 224,933, 5; Clare, 258,322, 6; Cork, 713,716, 12; Donegal, 289,149, 6; Down, 352,012, 8; Dublin, 176,012, 5; Fermanagh, 148,763, 5; Galway, 381,564, 7; Kerry, 236,126, 6; Kildare, 108,421, 4; Kilkenney, 169,945, 5; King's County, 144,225, 4; Leitrim, 141,524, 4; Limerick, 248,801, 6; Londonderry, 222,012, 5; Longford, 112,558, 4; Louth, 107,481, 4; Mayo, 366,328, 7; Meath, 176,826, 5; Monaghan, 195,535, 5; Queen's County, 145,851, 4; Roscommon, 240,613, 6; Sligo, 171,765, 5; Tipperary, 402,563, 8; Tyrone, 304,468, 6; Waterford, 148,233, 5; Westmeath, 136,872, 4; Wexford, 182,713, 5; Wicklow, 121,557, 4.

**TOWNS**.—Ardee, population 3,975, members 1; Arklow, 4,380, 1; Armagh, 9,470, 2; Athlone, 11,406, 2; Athy, 4,494, 1; Ballina, 5,510, 1; Ballinasloe, 4,615, 1; Ballymena, 4,067, 1; Ballyshannon, 3,775, 1; Bandon-bridge, 9,917, 2; Bantry, 4,274, 1; Belfast, 53,287, 4; Boyle, 3,433, 1; Bray, 3,758, 1; Carlow, 9,114, 2; Caher, 3,408, 1; Callan, 6,111, 1; Carrickfergus, 8,706, 2; Carrick-on-Suir, 9,626, 2; Cashel, 6,971, 2; Castlebar, 6,373, 1; Charleville, 4,766, 1; Clonmel, 15,134, 2; Clonakilty, 3,807, 1; Coleraine, 5,752, 1; Cork, 107,016, 5; Cove, 6,966, 1; Dingle, 4,327, 1; Downpatrick, 4,784, 1; Dungarvan, 6,527, 1; Dublin City, 204,156, 8; Dublin University, 2; Dundalk, 10,078, 2; Dungannon, 3,515, 1; Drogheda, 17,365, 2; Ennis, 7,711, 2; Enniscorthy, 5,955, 1; Enniskillen, 6,116, 1; Fermoy, 6,176, 2; Fethard, county Tipperary, 3,405, 1; Galway Town, 33,120, 3; Gort, 3,627, 1; Kells, 4,326, 1; Kilrush, 3,996, 1; Kinsale, 7,812, 2; Kilkenney City, 23,741, 3; Killarney, 7,910, 2; Limerick City, 66,554, 4; Lisburn, 3,218, 1; Londonderry, 10,130, 2; Longford, 4,516, 1; Loughrea, 6,268, 1; Mallow, 5,229, 1; Mountmellick, 4,577, 1; Mitchelstown, 3,545, 1; Monaghan, 3,848, 1; Mullingar, 4,295, 1; Navan, 4,416, 1; Naas, 3,808, 1; Nenagh, 8,466, 2; New Ross, 5,011, 1; Newtownards, 4,442, 1; Newry, 13,064, 2; Parsonstown, 6,595, 1; Rathkeale, 4,972, 1; Roscommon, 3,306, 1; Roscrea, 5,512, 1; Sligo, 15,152, 2; Skibbereen, 4,429, 1; Strabane, 4,700, 1; Tipperary, 6,972, 2; Thurles, 7,084, 2; Tralee, 9,568, 2; Trim, 3,282, 1; Tuam, 6,883, 1; Tullamore, 6,342, 1; Waterford City, 28,821, 3; Westport, 4,448, 1; Wexford, 10,673, 3; Youghal, 9,608, 2.

“The population is taken from the returns of 1831, which, having been made for a different purpose and without any reference whatever to the repeal of the union, furnish a scale of unquestionable impartiality.

“Sixthly—It is proposed that the right of voting should be what is called ‘household suffrage,’ requiring six months’ residence in the counties; with the addition in the towns of married men, resident for twelve months, whether householders or not.

“Seventhly—It is proposed that the mode of voting for members of parliament should certainly be by ballot.

“Eightly—The monarch *de facto* of England at all times hereafter, whoever he may be, shall be monarch *de jure* in Ireland; and so, in case of a future regency, the regent *de facto* in England to be regent *de jure* in Ireland.



"Ninthly—The connection between Great Britain and Ireland, by means of the power, authority, and prerogatives of the crown, to be perpetual and incapable of change or any severance or separation.

"The foregoing plan to be carried into effect according to recognized law and strict constitutional principle.

"Signed by order,

DANIEL O'CONNELL,  
Chairman of the Committee."

He subsequently read the rules to be observed by arbitrators appointed by the Repeal Association, to whom the people were to submit their disputes, also published by Mr. Browne, and proved by that gentleman on Saturday

The Chief Justice---Are there any other rules besides these?

Mr. Kemmis---The form of summons, my lord.

The Chief Justice---What I was alluding to was a rule that I am pretty sure was read in court; but I cannot recollect in what case. It went to this, that if after a party had submitted to the jurisdiction of the arbitrators, they refused to obey the award, that they should be expelled the association.

The Solicitor General---The document your lordship refers to, is a report of the arbitration committee.

Mr. O'Connell---It is a proposal in the shape of a report to the association. The reason why I wished to have the whole of this paper read was, to show that the plan ultimately adopted omitted that part of the report to which your lordship alludes.

The Chief Justice---Some such document has been read; see what it is, for I have it on my notes.

Mr. Brewster---Mr. Ross proved that the report of the committee was received and adopted, but he had no copy of it. Mr. Jackson, however, produced and proved a copy.

Mr. O'Connell---That was the report of the sub-committee, but not the plan which was finally adopted.

Mr. Brewster---It was a report of the sub-committee appointed on the 17th August, 1843, "to consider and report on a general system of arbitration throughout the country." The date it was received was the 21st of August.

Mr. O'Connell---What I want to learn, my lord, is, if the document be fairly before the court. I think we had better have it read again.

The Chief Justice---I think so.

The Deputy Clerk of the Crown then read the report as follows:

"Report of sub-committee appointed on the 17th day of August, 1843, to consider and report on the adoption of a general system of arbitration throughout the country.

"Your committee having carefully considered the several questions referred to them with respect to the introduction of a system of arbitration throughout Ireland, with a view to the better adjustment of all disputes that may from time to time arise among such of the inhabitants thereof as may be disposed to submit same to arbitrators, beg leave to offer the following report thereon, for the adoption of your association:

"Your committee are strongly of opinion that inasmuch as many of the magistrates who possess popular confidence have been deprived of the

commission of the peace because of their attachment to the cause of legislative independence, no unnecessary time should be lost in carrying into practice the principle of arbitration as already approved of by the unanimous vote of the association. In order, therefore, to secure the perfect and harmonious working of such a system, your committee recommend that a standing committee be immediately formed to arrange the necessary details, prepare the requisite forms, and superintend the practical working of the system after it shall have been put in operation. Being further of opinion that the system of arbitration should be as universally applied as the circumstances of each locality will admit, your committee recommend that for that purpose the several counties be apportioned into districts, and that three or more arbitrators be recommended for each district, the number to be determined by the extent, population, and such other local circumstances as may seem to bear directly thereon. In defining those districts your committee would suggest that advantage be taken of the divisions at present established for the purpose of petty sessions courts, and recommend that those districts be adopted, inasmuch as the peasantry are in general familiarised thereto. Your committee suggest that the dismissed magistrates, and such repeal justices as have resigned, be in the first instance recommended as arbitrators in their respective districts; and that a dismissed magistrate, or one who has resigned at present, be in all cases chosen as the chairman of the court of arbitration. Your committee are strongly impressed with the conviction that in selecting persons to be entrusted with such high and important functions as those that will necessarily devolve upon the arbitrators, the utmost diligence should be used to procure persons not only of high moral character and local influence, but who also possess the full and complete confidence of the several classes upon whose cases they may have to arbitrate. For this purpose they would suggest that the repeal wardens resident in the several districts, be called upon to recommend to the association such persons as may seem to them the best qualified to act as arbitrators, and that they be directed, in making their selection, to request the aid of the repeal clergy and gentry in their several districts. That the names of the persons so selected and approved of be transmitted to the association through the provincial inspector of wardens, and be accompanied by a report from him on the qualifications of the persons so recommended, and that such recommendations and reports be referred for consideration to the standing committee.

"In giving the sanction of your association to the recommendation of any arbitrator, your committee suggest that it be given by vote of the association, at one of the ordinary or adjourned public meetings, on special motion made, and that of such motion it is necessary that at least one week's public notice be given. They further recommend that each arbitrator, on the vote of the association being formally notified to him, shall promise, as a repealer, that he will arbitrate impartially on all cases that may be referred to his decision.

Your committee would also suggested that the repeal wardens of the district be requested to recommend a person qualified and willing gratuitously to act as secretary to the district arbitrators, and that it be the duty of such secretary, as may be approved of by the association, to keep, under the direction and superintendence of the arbitrators, a book in which

proper minutes be kept of all proceedings had before the court of arbitration. Your committee are also of opinion that due publicity should be given in each district to the names of the arbitrators and the place of arbitration. With respect to the mode of conducting the proceedings of the courts of arbitration, your committee recommended that the arbitrator sit publically in a place or places to be named in their respective districts, on a certain fixed day, each week or fortnight, according to the peculiar circumstances of the localities; and that any person having any difference with or claim upon another, shall serve notice upon that other, calling upon him to come before the arbitrators on the next day of sitting, and submit to have the matter in dispute arbitrated upon, and that there shall be appended to said notice a further notification signed by one of the district arbitrators, notifying that the arbitrators would sit for the adjustment of differences on the day specified. It is the opinion of your committee that the presence of three arbitrators should be declared necessary to arbitrate upon each case, and that all questions be decided by vote, the majority determining the decision, and that should a greater number than three sit to arbitrate in any case, and that said number be an even number, that then the chairman should have two votes, and that in all other cases a majority of the vote of the arbitrators shall determine.

Your committee recommend that the parties be permitted to avail themselves of professional aid whenever they consider it advisable. Your committee recommend that after the parties shall have appeared before the arbitrators, a deed of submission be respectively signed by them and duly witnessed consenting to leave the matters in dispute to the decision of the arbitrators, and to abide by such award as they may make. That the arbitrators having heard the case and evidence adduced on both sides, make their award, which award shall be final and conclusive, and that they endorse same upon the deed of submission, and see that a proper entry of the proceedings be made in the minute book by the secretary, and that a copy of the award be given to each party, and that the original deed of submission and award be preserved. Your committee also recommend that after the publication of the award, should either party refuse to comply therewith, the party so refusing shall be reported by the arbitrators to the association, and that the standing committee do then proceed to inquire into the cause of said refusal; and that should the party so refusing fail to give satisfactory reasons to the committee for such his refusal, the committee do recommend that the party so refusing be expelled from the association by a public vote. Your committee would suggest that, for the better working of the system, the secretaries be required quarterly to forward to the association for inspection the minute books; and further recommend that blank forms of notices, deeds of submission, minute books and other such books and forms, be forwarded, in the requisite quantities, to the several districts, free of expense, and that there be no charge made or fee received by the arbitrators, or any of them, or by their secretary, for any notice, deed of submission, or copy of award, but that all forms be supplied, cases heard and arbitrated on, awards made, and copies thereof given to the parties, free of all costs and charges whatsoever. Your committee cannot conclude without urging upon your association the

necessity of calling upon all repealers throughout the kingdom to avail themselves of this mode of obtaining a fair and impartial adjustment of their disputes and differences.

"Signed by order,

"JOHN GRAY, Chairman.

August, 21, 1843.

The following documents were also read :—A draft of the appointment of repeal wardens : the form of summons before the arbitrators; and the placard headed "Leinster for Repeal;" and giving notice of a meeting to be held at Mullaghmast on Sunday, the 1st of October, 1843.

Thomas Packer was then called, and examined by Mr. Freeman, Q.C. He stated that he was a lithographic artist, and came to this country in last March twelvemonth, from London, where he was residing; on his arrival in Dublin, he was immediately employed by Mr. Holbrooke, of No. 4, Crow-street; was employed taking sketches from scenery and lithographing them; was also occupied in other branches. (Repeal "associate's" cards handed to witness.) Those were printed from stone, but were originally engraved on copper; they were partly done by a Mr. Gardiner and partly by a Mr. James; saw cards similar to those struck off in quantities, printed at Mr. Holbrooke's place; some thousands were struck off there, but cannot exactly give the number—(members' card handed to witness.) This card is printed in the same manner as the first one handed me; the printer gave the colour to that card; witness put the colour on the stone for the printer to print from; that card was done at Mr. Holbrooke's; a great quantity of those cards were struck off there; the colour that witness put on the stone for those cards was black (the colour on the card is green); it was the printer who put on the green by Mr. Holbrooke's directions; witness designed part of placard, namely, the "shamrock" and the "sun burst" on the flags; Mr. Holbrooke brought witness rough sketches; Mr. O'Callaghan used sometimes to come up with Mr. Holbrooke; believes Mr. O'Callaghan's Christian name is John Cornelius; Mr. Holbrooke told witness so; knows Mr. Ray; he has come up and inspected the cards, and suggested improvements in the cards; the improvement was with regard to the harp on one of the cards (volunteers' card handed to witness); Mr. O'Callaghan suggested an improvement in the likeness of Mr. O'Connell on that card. (Members' card handed back to witness.) The lithographic words, Thomas Matthew Ray, at the foot of that card, are a *fac simile* done from writing on a bit of paper, which I believe to be Mr. Ray's.

Mr. Freeman—Are you able to form an opinion as to his handwriting?

Mr. M'Donogh, Q.C., objected. (To witness)—Have you the piece of paper here, Sir? No.

Mr. Freeman—You have seen pieces of his handwriting? I have seen pieces which I believe to be in his hand-writing; has seen him write these words; from what witness has seen Mr. Ray write he thinks he is not able to form an opinion as to his writing; thinks he saw Mr. Ray at Mr. Holbrooke's, just after the words Thomas Mathew Ray were lithographed; if the green card was done before the other (the Volunteers') he was there.

Mr. Freeman—Are you able to swear positively now was Mr. Ray there? I am, ("Volunteers' card" handed back to witness); witness thinks it was he who made the sketches from which Mr. O'Connell's and other likenesses are lithographed in that card. The witness in reply stated he sketched the likeness of Mr. O'Connell, of H. G. Flood, which witness copied from a picture in the College Dining Hall, to which he was accompanied by Mr. Davis; of Owen Roe O'Neil, which he copied from a likeness in print, which Mr. O'Callaghan's brother brought to Mr. Holbrooke's place; of Brian Boroihme, which he copied from the frontispiece of "Keating's History of Ireland," which Mr. Holbrooke brought to witness.

Look at the next likeness on the card? That is Ollam Fodlagh—(a laugh.)

Where did you get his likeness? From my imagination—(great laughter.)

Who suggested the name to you? Mr. Holbrooke. I heard the name discussed by Mr. Holbrooke, Mr. O'Callaghan, and Mr. Davis. Look at the next likeness? That is Sarsfield.

Where did you get it? From an old French engraving in the possession of Mr. Geraghty, the bookseller.

Who brought you there? Mr. Holbrooke brought me to see it.

At whose suggestion was it put on the cards? I believe it was Mr. Holbrooke's wish to have it.

Look at the next? That is Hugh O'Neill.

Where did you get that likeness? I think I composed it—(laughter.)

Look at the next? That is King Dathy.

Were you ever in the association? I *were*—(a laugh.)

Did you see Mr. Ray there? I did.

Did you engrave many of the volunteer cards? I did not lithograph a very great number, as the stone employed in the work was injured. I made some effort to repair the stone. The associates' cards were done about the beginning of last year. The members' cards were done about the same time, and the volunteers' cards about March. The card I have been just handed is called the repeal wardens' diploma; I designed it from materials furnished to me by Mr. Holbrook; the design was commenced before the beginning of the last year; during the progress of the work I saw Mr. Davis, the two Messrs. O'Callaghan and Mr. Ray, come to inspect it; I think Mr. Steele came to inspect some of the cards; no person was with him; saw Mr. Duffy of the *Nation* come there with Mr. Davis; I took a sketch of Mr. O'Connell's head at the association rooms; that was while the volunteer card was in progress; I have seen Mr. Ray and Mr. John O'Connell also at the association; I was there very rarely except on business; I went to the meetings of the association about five or six times, for the purpose of sketching; I do not remember to have seen Mr. Duffy there or Dr. Gray; I saw Dr. Gray at Mr. Holbrooke's; I recollect Mr. Ray suggesting an alteration in the harp on the card; in the original form the harp was like an English harp, and not like an Irish one; Mr. O'Callaghan suggested an alteration in the cap of the chief; I at first put a spike on the top of it, which he thought was not correct, according to his notion of history; I had nothing to do with the striking off of the diplomas, and I do not know how many were printed; I was enrolled a member of the Repeal Association, but not with my consent.

Mr. Fitzgibbon---How do you know you were enrolled? I had a card handed to me by Mr. Holbrooke.

Mr. Fitzgibbon---That is not evidence.

Witness---I sketched Mr. John O'Connell in a room up-stairs at the Corn-Exchange; that was according to appointment; I made the appointment with him while riding on the railway; I understand it was a private sketch for Mr. Holbrooke.

Mr. M'Donogh---That is not evidence,

Witness---I was once before, up-stairs, at the Corn-Exchange, in what I believe is called the committee-room; I went there to sketch from a bust of Mr. O'Connell which they have there.

Mr. Freeman---Who brought you there to sketch that bust?

Mr. M'Donogh objected to the question as not being evidence.

Mr. Freeman---Were you paid for the services you performed? I *were*, Sir (a laugh). The witness bent down towards the members of the bar who were laughing, and correcting himself, said, with much emphasis, "I *was*," (loud laughter).

CROSS-EXAMINED BY MR. M'DONOUGH.

You are an artist? I am, Sir.

Your studio was, I suppose, open to the public, and was, no doubt, visited by Mr. Stewart Blacker and other connoisseurs? I do not remember seeing that clever gentleman there.

Is he clever? I think so from what I have heard of him.

Do you remember seeing any of my artistic friends around me at your studio? No.

Perhaps Mr. Tomb was there (laughter)? No I think not.

I am persuaded many gentleman went there to see and to admire? I don't know about admiring, but many gentlemen did go there.

I presume, if any of us went there, we would be allowed to see your very meritorious works, Ollam Fodla and the rest, including Dathy? I have not the pleasure of his acquaintance.

Who was he? I believe he is only known to the Irish people. (a laugh).

I believe Mr. Holbrooke was pretty well known to be in the service of the government; he had the words "Lithographer to the Queen" on the glass of his window; that was one of the first things that struck me when I came to Ireland; Mr. Holbrooke worked for the government and for the Repeal Association at the same time.

Mr. M'Donough---I am not alluding to his recent business for the government (laughter).

Witness---It was I who designed the "Sun-burst" on the card; the merit of that design should be pretty equally divided between Mr. Holbrooke and myself; I think, notwithstanding that, I am still a loyal subject to the Queen.

Who was Mr. Flood? He was a contemporary of Mr. Grattan. I saw Mr. Steele there once, on a matter wholly irrelevant to the subject of the card; I saw Dr. Gray there also, viewing the premises; I remember his looking at and inspecting the premises; I am wholly unacquainted with Mr. Barrett; I never saw him that I remember; and the interview with Mr. John O'Connell was private, having reference merely to taking his

likeness ; I have been here since Wednesday evening, and I have not seen Mr. Holbrooke ; I was in England up to that time ; I was in London since August last.

Do you know the fact that Mr. Holbrooke is in Dublin at present ? I believe him to be so.

Did you part with Mr. Holbrooke voluntary ? I did.

You went to London to carry on your profession there ? Yes, I did.

Isaac Gardner examined by Mr. Martley---I am a writing engraver ; I came to this country first about February, 1843 ; I was in the employment of Mr. Holbrooke, as an engraver, from February to the latter end of June, 1843 ; I engraved the letters upon these (members') cards for Mr. Holbrooke somewhere about the month of March ; I executed the writing upon the associates' cards ; I engraved the whole of it ; I did it before the members' cards ; the banners were upon the plate when brought to me ; Mr. Holbrooke gave me that work to do ; I do not know the traversers (Ray, Duffy, and Steele) ; I see the name, Thomas M. Ray," upon the card ; I put it upon it from an autograph supposed to be that of Mr. Ray ; I designed the writing from which that on the volunteers' card was engraved ; I cannot say, positively, who engraved it ; I executed the writing in the centre of the " diploma ; there is a stamp imprest upon the members' card, but not one where it was originally printed ; there is not one upon the diploma ; I cannot state how many impressions were struck off, nor what was done with the impressious ; I had no share in arranging the process for printing the colour.

CROSS-EXAMINED BY MR. MOORE.

I was in Mr. Holbrooke's employment from February to June, 1843 ; I came to Ireland in February, and entered immediately into Mr. Holbrooke's employment.

To Mr. Martley---A person named Annesley was in Mr. Holbrooke's employment ; I never saw him take away any impression from the office.

To Mr. Moore---Mr. Holbrooke did a good deal of business---amongst the rest for the government ; he had four persons for printing and engraving in his employment ; I received directions from Mr. Holbrooke in the ordinary course of business ; and I received the orders in that way too ; everything was executed openly, nothing was done in mystery ; the designing for the cards was as public and open as if it were done for the government.

John Annesley examined by Mr. Smyley---Was a lithographer in the employment of Mr. Holbrooke ; could not swear he printed the members' and associates' cards handed to him ; printed some like them ; laid the colour on them ; took some of the small cards on one occasion to the Repeal Association ; took with him a pass book ; the initials of the persons who received them were put on the book in Mr. Ray's office ; could not say what number of the green cards he printed, but they amounted to thousands ; printed some of the " awards" for the arbitrators, no stamp was on the paper which he printed ; printed " the deed of submission to arbitration ;" there were a good number of them ; never carried any of those papers to the association.

Cross-examined by Mr. Close---Did not know where the original die of the stamp on "the award" was; never saw the stamp affixed to the matters by Holbrooke; printed things for the government and for Mr. Holbrooke; had not to his knowledge seen the stamp affixed to things which were printed for the government; saw a die with Mr. Holbrooke; took no note of the time; did not see it five years ago; nor four years; nor three years ago; could not fix the time when he first saw it; would not venture to say he did not see it before 1843; the papers were printed within the last four months; did not see the die stamp many months before that; did not recollect ever having seen the die; saw the stamp upon the paper.

Joseph Annesley examined by Mr. Barker---I know Mr. Holbrooke, the engraver, of Crow-street, and have been in his employment, as printer, for eighteen months. (The associates' card was here handed to witness.) I have been engaged in printing cards of this description at Mr. Holbrooke's; I have seen such cards at his house, and have carried parcels of them from Mr. Holbrooke's to the Corn-Exchange; I left them at the top of the house, having delivered them there to the clerks, whose names I do not know; I heard of a person named Quigley, and delivered cards to him; he was one of the clerks of the Corn-Exchange. The witness then stated he carried parcels of the volunteers' cards to the Corn-Exchange, and that he had seen them brought there by others; also the repeal wardens' diploma, and the other cards.

Cross-examined by Mr. Macarthy---Was in the habit of taking many brown paper parcels from Holbrooke's to the Corn-Exchange; Mr. Holbrooke is in town at present.

The Attorney General called upon the officer to read to the jury the associates' card, the members' green card, and the volunteers' card, which were proved by the witness.

Mr. Fitzgibbon desired that the officer should read the inscription attached to each of the leaves on the shamrock in the green card.

The Court said the officer had already done so.

The officer then read the repeal wardens' diploma.

The Attorney General said the next document to be read was the deed of submission to the arbitrators' award.

Mr. Fitzgibbon objected on the ground that it had a stamp upon it; it came from the hands of the crown, and no document whatever, with a stamp to it, was proved to have been at any time issued by the association.

The Chief Justice said he did not understand the objection.

The learned counsel then repeated it, and argued that the document should not be received, as the traversers never delivered any paper with a stamp upon it, upon any occasion whatever.

Chief Justice---They don't read the stamp againsts you.

Mr. Fitzgibbon---Let them cut it off then, but I object to its going to the jury as it is.

Chief Justice---They do not want to use the stamp against you.

Judge Perrin---The stamp cannot be sent to the jury without your consent, or at all events it does not alter the import of the document.

Mr. Fitzgibbon still urged his objection, and the Solicitor General was about to reply, when,



The Chief Justice said the learned Solicitor need not trouble himself upon the subject, as the court were unanimously of opinion the document should be read.

The officer then read the document, which was in blank, and also a blank copy of the arbitrators' award thereupon.

John Ulick Macnamara, examined by Mr. Towb, Q.C.—I am a short-hand writer, and was present at a repeal meeting at Tullamore on the 16th of July last; I arrived there the evening before the meeting; the proceedings commenced about two o'clock; I observed the people coming into Tullamore as they would have seen coming to market; there were great growds; I took a note in short-hand of what passed at the meeting, and copied my notes out with the exception of a few sentences; my short-hand notes have been destroyed; I have my transcribed notes here.

Witness produced the transcribed copies of his notes. and said he saw Mr. D. O'Connell and Mr. Steele at the meeting; the Rev. Mr. O'Rafferty presided.

Mr. Tomb—Turn to your transcribed note and tell their lordships and the jury what the chairman said at that meeting.

Mr. Hatchell (to witness)—Do you mean that your transcribed copy of the short-hand notes you say you took at the Tullamore meeting in an accurate verbatim representation of what occurred there? Yes, with the exception of a few sentences; I took notes of some sentences which I omitted in the transcribed copy.

Then the short-hand notes would show certain parts of the speeches delivered at this meeting, which do not appear in the transcribed copy? Yes.

Is there any portion of that which you transcribed supplied by your memory, and not in the short-hand notes? Yes.

Do you mean to say that there is not one substantial or substantive word in the report you are now going to read, which was not taken down by you in short hand? I do.

And that the sentences in the short-hand notes are all, with the exception of the few you described, correct representations of what was said at the meeting—do you mean to say that? I do.

State what the Rev. Dr. O'Rafferty said at that meeting? The witness proceeded to read the following speech:—

"Fellow-countrymen and brother repealers, the regenerator and liberator of our country has come to pay you a visit. Allow me to tell you that the mighty leader of the Irish people has come to address you; this is the first time we had the honour to see him at a public meeting in the town of Tullamore. I don't say too much for the people of this locality when I assert that they were at all times the ardent and sincere supporters of every measure introduced by that great man for the benefit of the country. He has come to talk to you about repeal. I believe you all know what that means; he has come to bring back our native parliament, to establish a legislature in this country that will make the laws for the benefit of the people; that will respect the rights of the people, and that will give them good government. They have been too long trampled on by the representatives of Saxon authority; too long have they been trodden down and treated worse

than slaves. That great and illustrious man will address you ; he will tell you as he often told others, the great and lasting blessings that a domestic legislature will bring to this country. I return you thanks for the honour you have done me ; for thirty years I have laboured sincerely for the public cause. I have been a supporter according to my humble means of every measure introduced for the good of the country, and my exertions shall not be wanting to forward the great cause of repeal."

Examination continued---Did a Mr. Flanagan address the meeting? He did, very shortly.

Did the Rev. Mr. Spain make a speech, and, if he did, read it? The witness replied that he did, and proceeded to read it as follows:---"On occasions of a nature similar to the present it has lately been often said, 'This is a great day for Ireland;' but I may be permitted to say that this is a glorious day for the King's County; this day the King's County has nobly done its duty, and the truth of this assertion is fully borne out by the display which I now witness. But a few short months ago we had a meeting at another end of this county---at Birr; at which the Liberator did us the honour to attend. It was one of those meetings in which Ireland put forth her moral strength; the people assembled in hundreds of thousands determined that she shall be a nation. As I had then an opportunity of expressing my sentiments on the subject of repeal, I shall now take leave to read the resolution that has been put into my hands. (The reverend gentleman then read the first resolution) Whatever be the views of public men with regard to maintaining or repealing the act of union, no man of common sense and common honesty can deny the truth of that resolution; no man can deny the reckless character of the men by whom the union was proposed, or the infamous means which were adopted to carry it; and if it be equally true that the distressful consequences too truly predicted have been literally fulfilled, on what ground can any Irishman wish to see it maintained. That Englishmen should be for the union, that even Englishmen of liberal principles should be for it, is not surprising because it confers benefits upon their country; but no Irishman ought to hesitate a moment in demanding its immediate repeal, because for every good it did to England it caused an injury to Ireland."

Examination continued---Did the Rev. Mr. Nolan, of Dunkerrin, make a speech at the meeting? The witness replied in the affirmative, and read the reverend gentleman's speech, in which he moved the adoption of a petition to parliament for a Repeal of the Union.

Was the resolution seconded? It was, and carried.

Did the Rev. Mr. Kearney speak? He did!

Read his speech? The witness then read the speech in question, which was as follows:---"I hold in my hand a resolution for the adoption of this great and important meeting, pledging them to perseverance in the agitation that has been set on foot by the Liberator of the country, and has continued so long to the great credit of the nation. As no political good was ever achieved by depressing the people, so no public grievance was ever redressed but through the exertion, determination, and perseverance of the people. Our position at present is a glorious one, and you have only to persevere a little longer to make your country independent and prosperous. - Now that the determination of the nation has been fixed

on the return of their legislature as it is to-day, can any man doubt that under the guidance of our great leader we shall soon obtain it? and in fact the ministry that govern us, and who thought a few weeks ago that by the exhibition of some red coats among us they could fright the land from its propriety, have been miserably disappointed by that tone of defiance with which they were met. The father of his country, though given always to peace, hurled back, and in proper time, a bold defiance to Peel and Wellington. That defiance had its effect, and the valiant ministry were somewhat in the position of Bob Acres in the play---their courage began to ooze out at their fingers' ends. The last speech of the Premier announces that the idea of coercion has been given up entirely. What then will they do? Do they intend then to concede repeal immediately? Every one sees they must do it in the end; for

‘Freedom’s battle once begun,  
Tho’ baffled oft, is ever won.’

Repeal will be won, and I doubt no very distant day. Peel has admitted the evils of Ireland, and that he has no remedy, he must give up to somebody. Every one was tired of him, and our beloved Queen (Mr. O’Connell—Three cheers for the Queen,) you may be assured will be delighted to receive Peel’s resignation as Premier some fine morning one of these days. The Whigs, who boast of having conferred so much on Ireland, and boast more of what they would confer were it not for the opposition of the Tories, would of course come in. They imagine that by a course of liberal government in Ireland they could put a stop to the repeal agitation ---by giving up the church temporalities; that by enlarging the franchise and increasing the constituency in Ireland, they hope to detach us from the great and paramount consideration of this question. They might concede all these, and even more. Most likely they would tempt the Liberator with fine promises in addition to some good acts; but he was too wise for them; he was never yet over-reached by an English government; he has always been the watchful, wary, and undeceived advocate of his country’s wrongs; and we may safely leave him to take everything that they give, but as soon as he gets all, never was the steam of repeal up till then. Allow me, then, not to take up your time any longer, to read the resolutions.”

Mr. Tomb---Was anything said or done by the people surrounding the platform? Yes; there were shouts of “repeal, repeal, repeal.”

Have you in your notes anything spoken by Mr. S. Robinson? I have.

Mr. Tomb, stated that he would not call the witness to read it unless required by the traversers.

The traversers’ counsel having made no observation, the examination was continued.

Mr. Tomb desired the witness to refer to Mr. O’Connell’s speech, which he was proceeding to do until interrupted by

The Attorney General, who stated that he had just been informed that two of the traversers had left the court to attend a meeting, which was a proceeding he could not acquiesce in, although he had not objected to their leaving the court occasionally, if they did not go from about the

precincts; when he heard that two of them had left purposely to attend a meeting, he should insist upon their attendance, or he would have them called upon their recognisances.

Mr. Moore—They will be sent for.

(Messengers were then despatched for Mr. O'Connell and Mr. Steele, the two traversers alluded to, who had left the court for the purpose of attending a meeting at the Conciliation Hall; shortly after which they returned and took their places, in which they remained for the rest of the day.

Mr. Tomb—Have you Mr. O'Connell's speech at that meeting? I have.

Read it? The witness then read the speech in question, from which we extract the following :—“ I rise to address you upon a new topic, that I scarcely ever touched on before. I have a new theme now to dilate upon, and it is with infinite pleasure that I now announce to you the certainty of our carrying the repeal of the union. When I addressed former multitudinous assemblages of the people, I endeavoured to show them the advantages that would result from a repeal of the union; that nothing would do good for Ireland, but the restoration of her own parliament; upon that topic I dilated often, and was able to demonstrate that Ireland must continue in misery unless she had her own parliament; my object was, to excite them to exertion, and I threw in the ingredient of hope, because a struggle without hope is a vain and tedious operation; but now I need not talk of hope, for I came here to-day to announce the certainty of repeal. In my former addresses I called upon the people to aid me in the struggle I was making; I continue that call still, but I have to add to it that success is placed beyond all possibility of doubt. You have only to persevere and redouble your exertions if possible, and the battle will be won. We have got upon 'vantage-ground, and must not only endeavour to keep it, but we must advance still further on the road to victory: and it is as certain that we shall carry repeal as that the sun is now shining upon you. To be sure, that certainty is to be attributed chiefly to our own simultaneous exertions, from which success so far has entirely resulted; but I mean to show that it arises also from the acts of our bitterest enemies. When I was a counsel practising at the bar, I always liked to prove my case from the mouths of the witnesses who were produced against me, and the witnesses I mean now to call to attest that we will have the certainty of repeal, are Peel and Wellington, and thus to prove by the evidence of those most hostile to me, the case of my present client—Ireland. Yes, the present administration have proclaimed, trumpet-tongued, that repeal is inevitable; and though they threatened at first to bully and coerce Ireland, I have the subsequent testimony of their own mouths that they had not the power to carry their illegal and unconstitutional threats into execution. Like the fool who came to a river and stood by the side in the hope that all the water would run by that he might pass over dry, this is the position in which Peel and Wellington are now.

They at first determined to wait till the tide of agitation had passed by and repeal should be heard of no more; but when the call for repeal was raised by half a million of voices which increased every time I ad-

dressed them; when this was announced up starts the Iron Duke, and proclaimed a civil war—horse foot, and artillery were to be poured in upon us; and one of the most despicable statesmen, Lord Brougham, and a creature called Beaumont, who calls himself a Catholic, like cur dogs, now broke loose like a panic, and echoed to the cry. They proclaimed that they would let loose the dogs of war, and cut down repeal—(a voice, never.) Don't be in a hurry; I am going to say, that they themselves tell us now they will not do it. Never were men so bewildered as they were, and never did men show such an utter disregard for character or principle. At the same cry, Peel came down, and took the name of the Queen in vain, that is, he took it falsely; he declared that the Queen had said she would put down repeal. I told him it was a lie—and, in terms as plain as were consistent with her station, the Queen told him it was a lie—that is the plain English of it. Well, he next threatened us with a civil war. My reply was short and brief. The packet came in in the morning and announced that determination, and next day I had the association assembled. I stated that we broke no law, that we stood upon the constitution, and hurled back a high and haughty defiance. This line of bold and honest defiance had its effect—the bullies pulled in their horns when they found they met with resistance; we went on with our meetings and the idea of coercion was given up. Our rulers have discovered that it would not be safe to become lawless oppressors, and I will answer for the people that they will never give them the slightest cause to attack them. When I addressed former meetings I told them to join me and all would soon be right; but now I tell you that it is all right, the nail is in the hole. (A voice—Drive it home.) Ay, drive it home, and I will clench it on the other side." After alluding to the plan of fixity of tenure, Mr. O'Connell said—"We do not want to turn the landlords adrift, but then they must be in a hurry to join us, because we are about to carry repeal immediately, and from this spot, which is about the centre of Ireland. I now call upon them to join me, but if they do not, let them take care that they do not regret it. Let them now come forward and join the people, and they will be paid more in respect than they are now paid in money. Oh! go home and circulate the good news, that after centuries of oppression we shall obtain freedom because we deserve it. Spies and informers have invented the Ribbon society, but if any man in your county becomes a Ribbonman, catch hold of the man who made him so, and bring him to justice. Let every man who promises me that he will catch a Ribbonman, hold up his hand."

Mr. M'Donough—What was done then? I have no note of what was done.

Mr. Tomb—Do you remember what was done? The crowd held up their hands.

The reading of the document was proceeded with as follows:—Oh, now I have your pledge, and no honest Irishman ever broke his pledge. Have I not teetotallers here (yes)? I am proud of your confidence. I can collect you together at any time. If I want you I can get you any day in the week (a voice, "The sooner you want us the better") I am not deluding you, but I am able to prove in any court what are the blessings of repeal, and it is impossible that the people of Ireland can remain any longer in slavery. I am able to demonstrate that the people of Ireland

are the most manly in the world. Oh ! little the Saxon knows the gentleness of manners that arises under religious enthusiasm. But if it should be necessary for you to remain in the field till blood shall flow, general never stood by such soldiers ; I have the bravest and most moral people in the world to deal with ; but you must combine, there must be no treachery among you, and it is treachery to vote for any one but a repealer. I have heard of some parish in this county where some repealers voted for a Tory ; however, we will say no more about it at present ; but now I give command never to vote for any Tory, nor for any else but a Repealer. A friend of mine was coming down from Dublin, and saw a man working in a kind of Botany Bay of his own, a number of men were working together near him, but left him to work in a part by himself, solitary and alone, and refused to hold any intercourse with him. My friend was afraid that they belonged to some secret society, and addressing them, said that he hoped that they were not Ribbonmen, that they refused to let that poor fellow into their company, but what was their answer—' O, that fellow refused to become a repealer.' These good men were combined for the cause of repeal ; and it is absolutely necessary that you should be doubly active now ; I cannot afford to leave out, man, woman, or child, without becoming repealers. Let every one join with me in the call for repeal, and the shout will reverbrate to England ; the Saxon will be aroused from his slumber, the echo will be borne on the wild waves, and the union shall be, must be repealed."

Mr. Tomb—On what day of the week was the meeting held ? On Sunday.

The court here adjourned for a short time.

Examination resumed—The meeting was held on Sunday in the Market-square of the town of Tullamore ; I can form no estimate of the numbers assembled on the occasion ; I saw a great number of flags and banners displayed both in the streets and at the meeting.

Mr. Tomb—State to the jury if you saw any of the incriptions on these banners what they were. One was " See the Conquering Hero comes." Another—

" Breathes there a man with soul so dead  
Who never to himself hath said,  
This is my own, my native land" (laughter).

Mr. Tomb—Any more ? Yes ; " Ireland, her Parliament, or the world in a blaze," and " Cead mille failtha,"

A Juror—Was the banner on which were the words, " Ireland, her Parliament, the world in a blaze," displayed at the meeting or in the town ? I saw it before the meeting took place in one of the streets.

To Mr. Tomb—There were a great many bands of music there ; the meeting lasted about two hours

#### CROSS-EXAMINED BY J. HATCHELL, ESQ., Q.C.

I arrived in Tullamoore on the evening before the meeting ; I went to the Market-place before any crowd had gathered ; there was a platform erected for the speakers ; I was on it ; saw one reporter there, and understood there were others ; there was not the least obstruction to my taking

notes; the people assembled as if they were coming to a market or a fair; there was a great number of females amongst them, and some children; everything appeared perfectly peaceable, so far as the conduct of the persons there; I do not belong to that part of the country.

Mr. Hatchell---By whom were you employed to go to the meeting? By Captain Despard.

Mr. Tomb---I object to that question. The witness had no right to answer it.

Mr. Justice Crampton---It is over now.

Mr. Hatchell---Were you ever employed for any newspaper? No.

Were you there on the part of the government.

The Chief Justice---You must not answer that question.

Mr. Hatchell---The question was put in Mr. Bond Hughes's case, and it was answered.

The Chief Justice---The point was different.

The cross-examination of the witness was then proceeded with. I did not go to the meeting for any of the Liberal papers; I did not to there for any newspaper.

Were you paid for your report? No; I was not.

Then as yet you have not been paid for your services? I have not, and I am very much afraid I never will (laughter).

Mr. Hatchell---I don't at all participate in your terrors in that respect.

Witness continued. I did not transcribe my notes for several days after the meeting, and that was the reason I was not paid; I did not send them in time; I did not transcribe them until about six days after the meeting; I did so at home at Trim.

Had you been applied to for your report? I understood an application was made at my house for it, but I was not at home at the time, and that was the reason why I did not write it out sooner; I went home after the meeting broke up; I took my notes on loose slips of paper; after I retired from the meeting, I went away and did not return home for two days; I certainly understood when I went to the meeting to take notes, that I was to be paid for doing so, but no price had been specified; I was employed as a reporter for a Drogheda paper about twelve months previously, but I was not connected with any newspaper in the meantime.

Then you were out of practice for twelve months? Not quite out of practice, for I often took notes at the assizes, but I did not transcribe them; I was not written to for my report.

How did you come to make it out? I knew I would be asked for it. I think I had the report completely transcribed in six days after the meeting.

How long did you take to transcribe it? I cannot say exactly.

Did you do it in two day-? I cannot say positively.

But you must be positive, as near as you can? I cannot.

Will you swear that you did it in three days; I must have the time, so be very minute? I really cannot say; I was to be paid by the job; I was paid for newspaper work by the year.

And you will not tell me how long it took you to transcribe these notes of yours? I cannot; I did not transmit a transcript of my notes,

nor did I intend to transmit them unless applied for. They were applied for during my absence from home as I have already said; the message that came to my house in my absence was not in writing; I was told the day after I came home that if the report was not sent that evening by post, it would be too late; I had not got them ready and conceived then that it was too late.

And yet you went to the hard work of transcribing your notes after that? I thought it might possibly not be too late; I thought it might be to hurry me.

Then upon possibility you sat down to do the work? I did; cannot say how long I took to do it; I did not know that I was taking the notes to be used.

Did you not know that you were to be examined as to the accuracy of your notes afterwards? Upon my oath I had no idea I should be examined; I had seen so many meetings passed over in the reports, of which I had read language so—

Mr. Hatchell—Never mind that, (laughter). Whose fault was it that they were passed over? I can't tell.

Would you give your own opinion? Oh, I will give my opinion if you wish.

Oh, never mind it. It was on speculation you sat down to write your notes? Yes; on speculation. I knew that I could be examined, but I thought it very improbable.

To whom did you send the transcript of your notes after you finished them? I did not send them at all.

Well, how did they get out of your possession? I gave them to my brother-in-law to read, and he gave them to a person—I don't know whether I should mention his name or not.

Mr. Tomb objected.

Mr. Hatchell—Upon your oath, did you give the transcript to your brother, to be returned to you? Upon my oath they were to be returned.

Did he return them? He did.

Having got back into your possession, how did they get out of it again? My brother called to me a second time for them, for the same person to show them to another person—(laughter).

Why, how many *dramatis personæ* were there in the farce altogether—first, there was your brother-in-law—then there was a person unknown—then your brother-in-law again—and then another person unknown? I will mention the persons, if necessary.

Oh, you need not, as Mr. Tomb objects to it.

Mr. Tomb—Yes, I object.

Mr. Hatchell—How many days was all this going on between you and your brother-in-law? I cannot say. They were returned to me after some time by him, and I gave them back to him, and I never saw them since until I saw them here. My brother-in-law was the person who transmitted them to the person of whom I am to say nothing.

What interval passed between the time you finished that transcript and the time it ultimately left your possession? I cannot say exactly; it was more than a week.



Mr. Hatchell called on the witness to produce the transcript again, and the witness took it out of his pocket.

You first made a rough draft from your short-hand notes ? Yes.

Then this is a fair copy from the rough draft ? Yes.

Where is the rough draft ? It is destroyed.

And the short-hand notes ? Destroyed.

When ? I believe the same day, the rough draft. I dare say it was two months after the meeting. I think it was not three months. I had them for a considerable time after the report had finally left my possession. I did not take every sentence that was uttered, and often tried to finish sentences myself where parts were wanting in my notes. Whole sentences may have been omitted.

I think you mentioned in one part of your report something about a Spanish profession ? I know the passage you allude to ; I said a profession in Spain or France.

Whose system of short-hand do you write—Taylor's ? No ; is it necessary that I should tell you ? Oh, no. Witness (looking over his transcript)—I have the passage—"Because distinguished professors in Spain and France have proved that there is not such a people on the face of the earth."

Will you swear that was what was said ? I will swear that I took it down so in my notes. I will swear it was not Scotch professor that was said. I am quite ready to swear that I took it down in my notes as I have read it.

But you do not mean to say you are infallible ? No.

Will you swear that you might not be mistaken ? No, I will not.

Do you know how to write short-hand at all ? I do.

Write professor and philosopher ? The witness did so, and Mr. Hatchell and Mr. O'Connell said the character he wrote for professor was longer than the one he wrote for philosopher.

The witness---That often occurs.

Mr. Hatchell—Did you see the placard about "The World in a blaze," in the market-place, when going to the meeting ? Oh, yes, hours before ; I did not go through that street after the meeting, or any time before I left the town ; I do not know that it was taken down ; I did not hear Mr. Steele direct it to be taken down ; I heard Mr. Robinson suggest a plan to the meeting. The witness then read his report of Mr. Robinson's speech, from which the following is an extract :—

"Gentlemen, when Ireland asked bread, what did you get but a stone, and when you asked for the amelioration of your sad condition you got an arms bill, a proof of their total ignorance of your wants and condition. But, if the provisions of that bill were not of the most insulting and unconstitutional nature, and if it did not give the petty tyrant an opportunity of trampling still further upon the liberties of the people, I should care nothing about it, for we want no arms but our own two arms, and our head to guide them, and whilst we move under the counsel of the Liberator we shall be sure never to make a bad use of them. We shall have recourse only to that moral warfare which tyrants never understood before ; a new species of warfare, a warfare more likely to restore the liberties of Ireland

than all the armies in Europe. We want amelioration, and are anxious to do harm to no one, but to do good for ourselves. Instead of an arms bill they ought to give us another bill, they ought to give us fixity of tenure to better the condition of the poor landholders. Our tenants ought to be paid for their improvements, and the landlords ought not to be allowed to drive or distress their tenants unless they gave leases for three lives or thirty-one years. I think you like that, that would be a good arms bill, that is the arms bill we want."

Mr. Hatchell applied to the court for a copy of the notes of the witness.

Mr. Tomb objected; he did not think the learned counsel was entitled to the notes.

The court ruled with Mr. Tomb.

Mr. Hatchell—Have you been reading the whole of the report from beginning to end? No.

I think you stated it was moved that a petition to parliament be presented? Yes, it was.

Look at your notes and say who moved that? The Rev. Mr. Nolan.

I suppose you have no objection to that note of your testimony being perfectly public—you have no objection to swearing to the truth of it? As far as I am concerned I have not.

Is not the report your property? I don't know whose property it is.

Is it not the produce of your labour, don't you stand in the same position with regard to your report as any other proprietor? I don't know.

The witness then commenced to read the speech of the Rev. Mr. Nolan, which as follows:—

"Gentlemen, I beg leave to move the adoption of the petition to parliament praying for a repeal of that fatal measure, the Union."

Was that seconded? It was.

By whom? By Dr. Walsh.

In explanation of these names, perhaps I ought to observe, that very few of the names were announced, and it was only from hearing enquiries made as to who the speakers were, that I could catch the names. The petition was moved to be presented to parliament? Yes.

Have you a note of when that petition was moved. No.

Tell me, Sir (very seriously), for what are you searching in your pocket? For my pocket handkerchief—(much laughter).

I am sorry the question has such an effect upon you; did you take a note of the petition? I did not get it to take a note of it.

Why not take a note of it? I thought it would be given in the papers.

Did you apply for it, or did you expect it would drop along with your pocket handkerchief into your pocket? I did not apply for it.

You thought you were to get it though you never asked for it—eh? Did you ever read it? I never did.

Had you ever the curiosity to read it in the newspapers? Oh, I read it in the newspapers.

Did you read it in many more newspapers than one? Yes; I examined the reports of the proceedings of two newspapers; I have no copy of the petition.

What is the next note of any transaction which you have upon the paper? "A resolution moved," but I have not the copy of it.

Then some resolution was moved, of which you know nothing ? Precisely.

Who moved it ? The Rev. Mr. Kearney.

Who seconded it ? Mr. Clarke.

There was another resolution moved by Mr. O'Loughlin, seconded by Mr. Ryan ? Yes ; but I have not it.

What was the next thing done ? The reading of the petition to parliament was the next thing done.

What followed ? Mr. O'Connell's speech.

You told me you were taking notes at the table ? I was.

How did you destroy those notes ; I threw some of them into the fire ; my child cut some of them up.

And the draft along with it ? Yes.

Mr. Tomb to witness---You were asked if there were not other reporters present ? Yes. I said one ; I understood there were more.

Was he connected with a newspaper ? I assume he was ; he said he was.

John Simpson Stewart sworn and examined by the Attorney-General---You are a sub-inspector of the constabulary police ? I am.

Where were you stationed in July last ? In Tullamore.

Were you there on the day of the great meeting ? I was there on duty.

Did you go around the town on the morning of the meeting ? I did.

Did you see any mottos or banners on your progress through the town ? I did.

Mr. Justice Crampton---Was that before the meeting ? Yes, my lord.

The Attorney-General---Was there any persons in the town beyond the usual inhabitants on that day ? Yes ; a very large number.

What time was this ? Between nine and ten o'clock in the morning, great numbers had come into the town ; but the great body had not then arrived.

What do you call a large number ? Thousands of persons.

Do you know the High-street of Tullamore ? I do.

Did you observe any banners or mottos in the High-street ? I did.

Mr. Henn---I object to that question. I submit that what the witness saw in the streets is not evidence in this case.

The Chief Justice---Why not ?

Mr. Henn---Because it does not appear when, or by whom they were put up. This was seen before the actual meeting took place, and when a great number of persons were in the town ; but surely some further information should be given respecting it. The banner might have been put up at any hour during the night ; but that would not be evidence, if it was done before the meeting took place. It does not appear in this case that it was put up or carried about by anybody attending the meeting.

The Chief Justice---I don't know that it is necessary to show by whom it was done, as the evidence now stands. Observe this, Mr. Henn : all the parts and particulars cannot be given at one time. What the witness has already stated amounts to this : that he was in the town from the day of the great meeting, attending to his duty as an officer of police ; that on the morning it took place, a vast number of persons came into the town besides

besides the ordinary residents, amounting to several thousands; and that in the exercise of his duty he went round to make his observations as to what he should see, and he saw those multitudes collected and collecting in different parts of the town with different banners and mottos.

Mr. Henn—Pardon me, my lord, that is the foundation of my objection. It does not appear that those mottos and banners were carried by any persons who attended this meeting.

The Chief Justice—You should have heard me out; you interrupted me too soon. I said that over and above and besides the persons belonging to the town, there were thousands present in different parts of the town; that in the discharge of his duty he walked about to see what would take place; and that when he arrived in High-street, on his tour of inspection, he saw sundry banners and mottos; but he did not say that they were brought in by the people; but he states, as a matter of fact, that in the course of the morning, while preparing for the meeting that was to take place, he saw certain mottos.

Mr. Henn—With great respect, I submit, my lord, that he has not stated where or by whom this motto or banner was put up.

The Attorney General—You have not allowed him; he had just reached High-street.

Mr. Henn—What I objected to was his reading out these words before he had laid the foundation, by stating where they took place.

Mr. Justice Crampton—The witness says he saw this particular one in High-street.

Mr. Henn—Allowing that there were some banners there, the fact of this motto or placard being posted in High-street, or any particular street, surely is not evidence to affect the traversers here.

The Chief Justice—I see no possible objection to the evidence of the witness.

Mr. Justice Crampton—And if you look to the case of the “King v. Hunt,” which was cited before, you will find that this evidence exactly was given.

The Attorney-General—In the “King v. Hunt,” it was shown that placards were posted on the roads leading into the town, as well as in the town itself.

Mr. Henn—I don’t dispute that, but I put the case of an assemblage in the town; and, surely, the evidence of a policeman as to what he saw in the town, giving every thing that occurred before the meeting took place, cannot affect the traversers, *non constat*, at all, by whom these placards were put up. Suppose it was hereafter shewn that the persons attending the meeting interfered to take down these placards? Surely, it should be shown that these were the acts of persons attending the meetings, or that they were recognized by them, before these facts were given in evidence.

Examination resumed by the Attorney-General—You say you saw these banners when they went round? Yes.

The people were then coming in? Yes, they were into the town.

Did any of the persons come in through High-street? Yes, great numbers.

What direction is High street out of the town? The Birr road, and numbers came from that place.

Will you give me the motto on the banner in High-street? It was an arch, stretching across the whole street.

Was there any motto on it?

Mr. Henn---Now, my lords, here is an arch put across the street; it might have been put up the night before, or by other parties.

Mr. Justice Crampton---The same thing might be said of the platform. I dare say the arch was not erected by the parties who came into the town---but that was decided in the case of the "*King v. Hunt*."

Mr. Fitzgibbon---That was an indictment for attending an unlawful assembly. The three first counts were for a conspiracy, and the fourth for attending an unlawful assembly. Now, allow me to state what is the evidence in this case. A placard is found on a wall on the 18th July, and there is nothing to show who put it up, or whose act it was. What evidence can that be that Daniel O'Connell, or any of the traversers at the bar, did commit a conspiracy. The crown might as well give evidence of all the placards exhibited about Dublin, including those of the tea shops (laughter), and matters of that sort. I contend that the case of the "*King v. Hunt*" is not the same as the present, that being merely a charge of attending an unlawful assembly, and the placards were given in evidence to support the charge, but they were not given in evidence to support the conspiracy, nor was the court so absurd as to permit it. There is not in this indictment an allegation that any of these meetings were unlawful assemblies, and how then can these placards be admitted in evidence.

The Attorney General argued that the present case only differed from that of the *King* against *Hunt*, inasmuch as the former was a charge for conspiring to do what was actually done in the latter case; and he contended that in the one case, as well as in the other, it was perfectly consistent to judge of the character of the assembly from the banners and inscriptions used at it. In neither case was it shown that the banners had been carried or made use of by any particular persons.

Chief Justice---Nor was it necessary to do so.

The Attorney-General was aware that such was the case; and he argued that in the case of *Radford* and *Burney*, the special pleas were for conspiracy, as in the present instance; and in that case, as well as in the case of the *King v. Hunt*, the flags and banners were used as evidence. He submitted, that in the present instance too, the flags and banners could be used for the same purpose. He would just observe that that was the first time he heard the decision of the judges of the Queen's Bench, whose names had been mentioned, characterized as absurd; and he regretted that such an expression should have been made use of in that court.

Mr. Fitzgibbon denied that he applied the term "absurd" to the decision of these learned judges. What he said was, that they would not be guilty of such absurdity as to decide in the way mentioned.

Mr. Whiteside said that no one could intend to say that, if four or five persons carried banners or inscriptions, those banners or inscriptions did not convey their sentiments; but here, where it did not appear that the

banners were used or carried by any persons connected with the meeting, he contended that they could not be used as an authority to judge of the sentiments and opinions of persons assisting at or forming the meeting. As well might it be said, that if a meeting was to be held at Donnybrook, and an arch with inscriptions erected at Clontarf, those inscriptions should be taken as a criterion of the sentiments of the persons attending at the meeting.

Chief Justice—Unless we decide against common sense, we must decide that the flags and banners employed on an occasion like that in question may be taken to explain the character of the meeting.

Judge Crampton agreed with the chief justice.

Justice Perrin said that surely the acts and declarations of an assembly clearly showed the object of that assembly. But here was an arch erected, not in a place remote from the place of meeting, as Clontarf from Donnybrook in the hypothesis of Mr. Whiteside, but on the direct road to it, and in its vicinity. If that arch were taken down before the meeting, he supposed such a circumstance would appear in evidence; but if it were not taken down, but was suffered to remain during the meeting, it was surely an evidence to show the feelings entertained by persons at the meeting. Every case was not precisely alike, although it might have been decided on similar principles; and hence they were not to wonder if the cases cited by the Attorney-General were in some respects unlike the present one to which they were applied.

Attorney-General (to witness)—State what inscriptions were on the archway. On one side was the following—"The slavemas'er may brandish his whip, but we are determined to be free;" and on the other side—"Beware of physical force, beware! Physical force is a dangerous experiment to try with the Irish people. Repeal will not be put down by the bayonet."

Where in Tullamore is the Roman Catholic chapel? Opposite the Corn Market where the meeting was held.

Was the latter place visible from it? Yes, the place where the platform was erected could be seen from the chapel door.

Was there any banner near the chapel gate? Yes; opposite the chapel gate an archway was erected from one side of the street to the other.

What inscription did it bear? "Ireland, her Parliament, or the world in a blaze."

On what day of the week did this occur? On Sunday.

Did any of the thousands of persons who were in town go in that direction? Yet; they passed under it, for the arch was erected at the principle entrance to the Corn Market. The platform was exactly opposite to it.

Was there any banner about the platform? Yes, there was one exactly opposite the platform; the inscription was—"Ireland must not be, ought not to be, shall not be a serf nation."

Were there any mottos on the platform? Certainly; one of them was "Nine millions of people are too great to be dragged at the tail of another nation."

Mr. Hatchell.—Were there any others? Yes; another was, "He who commits a crime gives strength to the enemy," and another was, "God save the Queen."

Were there any others at the meeting? Yes; a great many, and among the rest, "See the Conquering Hero comes," "Cead mille failtha," "Peace and perseverance," "Repeal, justice, and prosperity, to all creeds and classes."

At what hour did the crowds begin to enter the town? Early in the morning, about ten o'clock, and from that period they came in immense masses.

What were the principal roads? The greater number came by the Birr road.

Were there any bands there? Oh, yes; a great number; I think about nine or ten, exclusive of the Tullamoore band.

Were they all temperance bands? I suppose they were.

They came at different times? Yes; with large numbers of the people.

Were there persons on horseback coming in? Yes.

Did you see anything in particular about the horsemen? Yes; they were in sections of four.

Judge Perrin---What do you mean by sections of four? Four abreast, my lord; four first, and then four after, and so on.

Did you observe anything in particular about one horseman? Yes; one of them wanted to leave his section, to stop at a particular house. When the horseman said, "d---n you, keep your ranks."

Did he obey that order? He did.

Could you say about how many horsemen came in sections? I counted seventy or eighty sections of fours, but I cannot be particular.

The Attorney General---That would make about 320? I calculated about 300.

Did you see anything particular about the persons on foot? They endeavoured to keep order in some kind of a way, but not with as much success as the horsemen. The infantry on foot kept round the temperance bands, and were forced on by the crowd.

Did you see any persons giving directions to those on foot? Yes; apparently as giving them directions, but I could not hear the words--- I think---.

Mr. Henn---Stop, sir; don't go give illegal evidence. What were they doing? Halting them, giving them directions, and keeping them in order.

The Attorney General---Marching them.

Mr. Hatchell---Oh! oh!

The Attorney General---When did Mr. O'Connell arrive? The day before: he slept at Tullamoore.

When were the arches erected? I think the first one was erected the night before; but the one opposite the chapel-gate was erected on the morning of the meeting.

Mr. Henn---Be certain now, and don't be giving us what you think.

The Attorney General---When was that arch erected? It was not there the night before; I think it was put there on the following morning, between nine and ten o'clock.

What time was it that you saw the mottos on the erected arches? I began to go about the town after nine o'clock in the morning, and concluded, I think, about half-past ten o'clock; but it is impossible to be accurate as to the moment.

What hour did Mr. O'Connell and the others assemble on the platform ? I have it down in my book about a quarter past two.

Where were you at the time, or did you see any other of the traversers except Mr. O'Connell ? I did ; I saw that gentleman (pointing to Mr. Steele).

Did you see any one else ? I saw Mr. O'Connell, and I think I would know him.

Mr. O'Connell---Here he is (laughter).

The witness—I have no doubt at all but that is the man.

Did you see any one else ? No, I did not.

Where were you when Mr. O'Connell was speaking ? In a store which overlooked the platform, about ten or twelve yards from it ; I never measured the distance.

Did you hear any portion of his speech ? I did.

Did you take down anything he said ? I did ; I took a short note of it.

State any thing of which you are quite positive ? The first thing he said was " That he came there from the centre of Ireland to announce to them the certainty of Repeal. He could prove from Peel and Wellington that Repeal was certain," or words to that effect (a laugh). He likened Peel to a fool who came to a river and stood there to let the waters flow past. He made some allusion to Lord Beaumont, and called him " despicable Beaumont," as far as I have it. He alluded to a speech of Peel's, who said he would prefer a civil war before he would grant Repeal ; and he then said, " The better day, the better deed ; let him make war on Ireland, for he stood there to hurl his high and haughty defiance at him." I am not giving his exact words. He then said the people of Ireland should not be compelled to pay for a church to which they did not belong. He alluded to the government or somebody giving them the ecclesiastical establishment ; but he said he would take it as an instalment. I did not hear him say how much he would take (loud laughter, in which Mr. O'Connell heartily joined). I will take, he said, what I get, and make them give me the remainder. He then talked of the teetotallers, and a great number of the people put up their hands. He then said, I want to give you a pledge." And they all held up their hands. " If I want you want I get you any day, or any hour." And they all cheered ; but he added, " I'll take care I shall not want you."

Mr. Hatchell---Just so.

The witness continued—I could only hear him very indistinctly ; in some parts he was totally inaudible. He then charged them not to give a vote for a Tory or anti-Repealer (a laugh.)

Did you make a calculation as to the number of persons present ? I did ; I should say there were about sixty or seventy thousand persons present, men, women, and children.

Did you include in that number those who lived in the town of Tullamore ? Not at all : only those who came into the town. When did the meeting disperse ? I think about five o'clock.

Did they all return home that night ? They did.

You said there were nine bands present ? Yes ; there were nine or ten bands present.

Had they any particular dresses on ? Some of them had white dresses, and others green and white.



CROSS-EXAMINED BY MR. HENN, Q.C.

You are not a short-hand writer ? No, I am not.

How long were you in Tullamore before this ? About two years and five months.

You were apprised that the meeting was about to be held ? Certainly.

And you attended there as directed ? Yes.

And it was your duty to report what occurred ? Yes ; I send every report to my superior officer of course.

You said you were ten or twelve yards from Mr O'Connell when he was speaking ? Yes.

He has got a loud voice---has he not ? He has, but I could not hear him.

Did you hear him say anything at the meeting against Ribbonism ? I think I did, but at that moment I lost the whole thread of his discourse (laughter.)

Aye, so I thought ; you lost the thread of the discourse when he began to speak of Ribbonism ? It was according as he spoke high or low that I heard him.

Were there many persons attended that meeting ? Yes ; there were great numbers.

And I believed it passed off peaceably, and did not require the interference of the police ? It could not have been more peaceable.

There was neither riot nor turbulence ? Neither.

Don't you think that there was less cause for accidents than there otherwise would have been by the great order that was observed by the people in marching into town ? I cannot positively say.

I suppose you have been in the habit of attending large meetings ? I never was at any so large.

That is not the question I asked. I wanted to know if you had ever attended large meetings, such as fairs, markets, or funerals ? Any of the fairs or markets I have been at were nothing in comparison to that meeting.

I did not ask you that. Be kind enough to answer such questions as I put to you. Did you never see horsemen attend a funeral in the same orderly manner that was observed in going to that meeting ? I never did.

When you went through the town the night before, are you quite sure you saw those arches erected ? I am not positive about it.

Are you positive that you saw the words " Repeal, or the world in a blaze " on one of the arches ? I am quite positive.

What time did you see that motto ? About ten o'clock on Sunday morning.

Did you see it taken down again ? I did not.

Will you swear that it was not taken down ? I will not.

Will you swear that Mr. Steele did not take it down ? I will not.

Was the place where it was erected within sight of the platform ? It was.

Did you see it from the platform ? I did not.

Will you swear that it was up when the meeting commenced ? I will not.

When did you see it last ? I saw it on my return from walking through the town (for the purpose of taking a note of the mottos on the different arches,) and I think it was about eleven o'clock.

When taking down the different mottos, I think you said you saw one with "Patience, Perseverance?" Yes.

Did you not observe also that there was an addition to it of "And obedience to the laws?" I did not see that.

You observed "Repeal" upon another arch, I believe? I did.

Did you observe that it was "Repeal" with the words to it, "But no separation?" I did not see that.

There were a great number of ladies in the town that day? I saw a great number of women there (laughter.)

Did you not see any ladies returning from church? I did not.

Did you see any people at all returning from church? I did not.

Did you see "God save the Queen" on another arch? I did.

Why did you not say so before? I did say so.

The Attorney-General---He did say so on his direct examination.

Mr. Henn---Then I admit I was wrong. You know we are all liable to be mistaken occasionally.

Did you see "The Queen, God bless her," amongst the different mottos? I did not see that. I wish to explain that there were a number of small mottoes on many of the windows, which I did not take.

Will you swear that you took down all the mottos publicly exhibited? I swear that I took down all that crossed the streets, or appeared to form a part of the meeting.

Did you take down all about the platform? I took down all that I could see; but am not positive that I saw them all.

Did you see one with the rose, shamrock, and thistle, and the words "God save the Queen?" I did not.

When did you make out the return which you said you gave of the meeting to your superior officer? On the Sunday evening and following morning.

When did you receive orders to attend the meeting? On the morning of the Sunday, and also upon the day previous.

And you sent in the return of your report two days afterwards? I sent in my report the next day.

Neal Browne, Esq., examined by Mr. Napier---I am resident magistrate at Tullamore, and I was resident there in the month of July last, the time of the Repeal meeting; my house is in the main street; I saw the people coming into the town from the western or Frankfort side of it; that was about one o'clock; they appeared to me to be coming in large bodies; I saw several bands of music in the town that day; there were some of them in before one o'clock; that was about the time that divine service was going on in the church; I remained from church for the purpose of being in readiness to attend if called upon as magistrate; when the procession was formed it went down the street, turned to the left, again to the left, and passed the church; that was, as I can recollect, about half-past two o'clock; I saw Mr. O'Connell in the procession; I am not positive, but I think Mr. Shiel was sitting in his carriage--I beg pardon, I mean Mr. Steele, the gentleman whom I now see in the traversers' box; I was in the field at the rear of my house when I heard the music, and I then ran into my house, and when I got near the window the procession had passed by. I followed it into the street, and when I came up I found that the people were

walking about fifteen a-breast. After taking different turns through the streets, the procession went to the Market-square, and passed within about 150 and 200 yards from the base of the mound on which the church is built. The music was then playing. I did not know what were the tunes. I met several persons coming from church through my own fields. That is not the usual way for them to go; but it is the one I usually take. There were about thirty-five or forty persons returning that way, I should think those who reside at the top of the town, and who generally went to church by the back road, along which the procession passed to the place of meeting, the Market-square. Three of the bands were in military uniform, with the exception that they had no belts; and the Roscrea band had what are called scales, which are worn on the shoulders of cavalry men. Another band wore caps, with a fall at the back of them. When I saw the people coming from the western side of the town, at about one o'clock, there was a large body of horsemen, five a-breast; from the calculation I made, I should say about 240 in number. They preserved their order except in some few instances, where they commingled with the crowd.

## CROSS-EXAMINED BY MR. MOORE.

I am resident magistrate at Tullamoore since the 26th of September, 1839. I have heard that it was usual for temperance bands to wear an uniform dress. I heard so two years ago. That was long antecedent to the meeting at Tullamoore, but not long before similar meetings. I heard the music playing, but I did not know what were the tunes. I know Mr. Stuart, the last witness. On the day before the meeting I sent directions to him and to the county inspector to attend the meeting. I returned from Dublin, I think, on the 14th of July. On the 15th I gave instruction to these gentlemen, at first verbally, but I afterwards repeated it in writing. As I had received instructions myself I considered I was responsible. I did not go to the place of meeting, nor can I state what was going on there. There was no riot or disturbance in the town till between eleven and twelve o'clock at night. I did not hear that there was any at the meeting; but I have no doubt that there was no disturbance there, as there was no report made to me of any.

Re-examined by Mr. Napier—How far is Roscrea from Tullamoore? I understand it is about thirty miles.

James Johnson, examined by Mr. Sergeant Warren—Do you hold any office in the constabulary? Yes; I am head-constable in the Sligo constabulary.

Were you so in the month of May last? Yes.

Were you in Longford on the 28th of that month? Yes; I came there on the 28th.

Was there a large meeting there on that day? On the 29th there was.

Did you make any estimate of the numbers? I should say there were forty or fifty thousand persons there on that occasion.

Were there persons on horseback? Yes; many.

How did they appear? They were drawn up in array across the street opposite the platform.

How many horsemen would you say were drawn up about the platform?

One hundred at least.

How did the people march into the town? In procession, with banners displayed

Had they bands with them? Yes.

How were the bands dressed? They had a kind of semi-uniform.

Were there mottos on any of the banners? Yes.

Did you take a note of any of them, and if so what they were? There were on them, "Cead mille failthe;" "Ireland for the Irish and the Irish for Ireland;" "Every man who commits a crime gives strength the enemy;" "Breathes there a man with soul so dead, who never to himself hath said, 'This is my own my native land'?" "Welcome, bright star of Erin;" "A population of nine millions is too great to be dragged at the tail of any other nation."

Where were you situated when the persons were speaking on the platform? I was at the reere of it.

Were you there when the chair was taken? I was.

Did you hear any of the speakers? I did.

Did you take a note of anything that was said? I did.

Who was in the chair? They called him Count Nugent.

Did you see Mr. O'Connell there? I did. I saw Mr. Steele there too, and several persons whom I did not know.

Read your note taken on that occasion. The chairman said "The Irish will get all they want if they attend to their friends, Ireland will be able to right herself. All should rally round the standard of Repeal." The next person who spoke was Priest O'Beirne: he said, "This is no time to give a silent vote. Ireland must rely upon herself; she must be raised to the condition of a nation. The loyalty of Ireland is not the loyalty of expediency."

He then inquired had the people any voice in the legislature? and several persons answered him with cries of "no, no."

Was there great cheering? Yes, at the end of the proceedings there were three cheers for the Queen, and three harty cheers for Repeal.

Did you hear a Mr. Carbery speak there? Yes.

Have you any note of what he said? Yes; he said they ought to all join to crush England, and that that year would bring a parliament to College-green, to legislate for themselves, and make their population contented and happy.

Have you any note of what Mr. O'Connell said? I have some notes; he said. "I can tell you, ours is no vain cause. Let there not be one ribbon society in the country; take no illegal oath. We are peaceable. Let them attack us, and then"---. Here he made a pause and continued--- "Let Peel and Wellington give us acts of parliament if they please, we will find a way to drive a coach and six through them."

Did Mr. O'Connell speak in the same tone of voice throughout? Yes, except the pause, which I cannot describe---but it might be and seemed to be, understood by those who were listening. He then said, "I will tell you what they will do; they will take the commission of the peace from your respective supporters; but an Irish parliament, one of these days, will punish them in an exemplary manner." He further said, "The temporalities of the church ought not to be allocated to the church of the minority. It was preposterous for one man to ask another to pay

or his education. I will tell you what repeal will do for you; it will give you fixity of tenure, and I will explain to you what that is; it will prevent you from having a landlord who will not give you a twenty-one year's lease. I say, give the landlord his right, but make him perform his duty. I will tell you what the union has done for us; it has carried nine millions from the country, which might otherwise have been spent in it. We will not continue under the domination of the Saxons. We were never conquered. Ireland must be Irish. You will fight for repeal and liberty. Go home quietly now, and tell your friends of this day's news, and when I want you again I will let you know the day."

Did Mr. Steele speak at the meeting? He came forward with a large bundle of papers, which he said were copies of an address to the people. They were for distribution; he said so: but I did not see him give any away.

CROSS EXAMINED BY MR. FITZGIBBON.

Did you know the gentleman you have designated as Priest O'Beirne? No; he was and is a stranger to me.

Where were you standing? About fifteen yards in the rear of the platform.

Then the backs of the speakers were turned towards you? They were, sir, and I found a difficulty in taking down what was said. I have no doubt.

Did you write those notes at the time? I did.

They are the originals? Yes.

Had you a table? I had a window stool.

Was there any one with you at the time? Yes; another head-constable named M'Guire.

Is he here? Yes.

How came you there? We were sent on duty.

Were you to take notes? Yes; we were to take notes of what was material.

You said Mr. O'Connell made a pause? He did.

A very significant pause, I presume? Yes, indeed.

A sort of language known to the forty thousand persons, but not to you? They seemed to understand it—it seemed to mean something which was not expressed (laughter).

Now turn your back, and show the jury what kind of a pause it was that Mr. O'Connell made? Indeed I am not aware where the jury are.

There they are (pointing to the jury-box); now express the pause? Well, indeed, I cannot so successfully give expression to the pause as Mr. O'Connell did (laughter).

You did not see his face at the time of the pause? I saw him on the platform.

Did you see his face? I may not have seen his face.

I ask again did you see his face? I cannot recollect whether I saw his face or his back.

Then his face might have been turned towards you? It might.

Was it necessary to send for you all the way from Sligo to tell us that Mr. O'Connell's face might have been turned towards you---did you see his face? I think I did not see his face.

How long did this significant pause last? It may have lasted two three, four or five seconds.

And did Mr. O'Connell make more than this one significant pause? Oh, yes; he made several pauses; but not such a pause as that which I have mentioned.

The pause, then, was one of three seconds—that which was the longest and most significant? I did not state it was a three second's pause.

Of course he was saying nothing (loud laughter).

Would you tell us what he said before this pause; now, sir, tell us? Indeed you press me, and question me so rapidly that my memory does not serve me quickly enough.

Now, what was Mr. O'Connell saying before this pause? He asked if they were to submit to the Saxon and oppressor, and be ground to the dust. He then paused (said the witness), and then added, "But we are never to be conquered"—that, sir, is the best imitation I can give of Mr. O'Connell's pause (laughter).

I fear we are putting you in a false position in asking you to imitate Mr. O'Connell's manner (laughter).

How long were you in Longford? I arrived on the night of the 28th, and I left on the Tuesday morning; the meeting was held on the Sunday.

Had you any riots there? Oh, no, the people, by the advice of Mr. O'Connell, were very quiet.

You were very sorry for that, I suppose? No, indeed; I was very glad of it; I saw no breach of the peace.

Did you see any tendency to a breach of the peace? The people came into the town in a very disorderly manner, shouting very loud, and brandishing their sticks; of course they were not going to quarrel with each other.

Did you hear the testimony of the last witness? I did not.

At what hour of the day did you see the people coming in in this way? There were large bodies of persons coming in from about ten o'clock until two.

Were they all that time shouting and brandishing their sticks? As they were coming in they did so; the people were in a sweating rage of excitement (laughter).

I thought you told us that the people took Mr. O'Connell's advice, and were peaceable? But Mr. O'Connell had not addressed them at that time.

You said just now that the people were in a sweating rage of excitement? Mr. O'Connell did not hear them; they were led into that state of excitement by persons whom I believe to be priests.

Did you see any of those persons having sticks? I am not able to say whether I recollect their using sticks or not; I am not sure whether they were in the hands of the priests.

Are you not able to say whether the persons whom you state were priests had sticks with them? My recollection does not enable me state positively whether they had sticks or not.

Are you able to swear whether they had or not? Certainly I will not swear it.

Did you see sticks in the hands of priests? My recollection will not serve me to say whether in the hands of persons who appeared to be priests there were carried sticks.

Did you know them to be priests? No; except from the style of their dress.

Did you see any one man on that day giving offence to any other man? I did not, I believe.

Is that your answer, sir? If any such offence were given, I did not notice it.

Did you see it? I saw persons pulling each other off the platform, and there might have been some momentary anger.

Did you see any momentary anger arise? I will not swear I did.

Did you or did you not see it? I may have seen it, but I will not swear to it.

On your oath did you see any anger there? I will not swear there was.

Did you see any breach of the peace? I saw no breach of the peace. The people were all of one opinion—to follow the advice of Mr O'Connell and the other speakers; they were all of the same opinion, to do anything he pleased.

But when did you see the brandishing of sticks, and hear the shouts? From ten to two.

All that time? As they came in the priests brought them to the place where they were to locate them.

Were not all coming in from ten till two? Yes; and before that time; they were coming in from nine o'clock.

Were they coming in from nine o'clock shouting and brandishing their sticks—were they doing that all the time? They did not come in all at the same time; they came in in batches.

Did you suppose that we conceived you to have said that they came in simultaneously when you said they were four hours coming in?

On your oath were they shouting for four or five hours? As they came in they were shouting.

Were all those bodies of men shouting? I did not say that all the bodies were.

Was any body shouting? Yes.

Where were the police? Oh, at such meeting as that the police dare not show their face.

You were there? Yes.

How were you there? I was in plain clothes.

Were you disguised? I was ordered on duty in plain clothes.

How many of you went from Sligo? Two.

Two only? Yes.

In what part of the town was the shouting? It may have been in several parts.

I beg of you, sir, not to give me such an answer as that. We do not want you to come from Sligo to tell us what may have been, but what has been.

In what part of the town did you see the people jumping, and brandishing their sticks, and shouting? Somewhere about the middle of the street, where I was; in the centre of the town, near the market.

What is Needham ? A person in business.

What business ? (witness here paused.) A mighty pause ! I believe he is something in the business of a chandler.

Have you a nose ?—are you not sure he was a chandler, if he were a chandler ? What street was it ? I do not know the name of it.

Was it in the main-street ? Where the meeting was held there is a junction of three roads, the canal road, the Dublin coach road, and——.

Did you hear the shouting and see the brandishing of sticks while you were in Needham's house ? I did, several times.

Will you name the hours at which you saw this ? From about ten o'clock until about two, when Mr. O'Connell was there. There were occasional displays of the mob leaping on the ground, waiving their sticks, hallooing, and shouting.

How often were those displays made ? I cannot be positive.

Were they many times ? Many times.

They extended over the whole of that time, and there were no policeman walking up and down ? I saw no policeman there.

On your oath did you see a policeman walking up and down ? None, from the time the meeting was gathered ? I swear I did not see a policeman from eight till ten.

Did you see one after ten ? I may have seen one after ten.

Was there loud shouting ? There was.

Every one must have heard it as well as you ? Yes, every one within the possibility of hearing the shouting.

That is where you were ? Yes, any one who had the use of his ears might have heard it.

Must not the waiving of sticks have been visible to others as well as you ? Yes, to every one in the same position.

It was a very remarkable thing ? Decidedly.

You saw no policeman from eight till ten ? During the time of the meeting I saw no policeman ; I may have seen them going to the barracks.

Did you see the police in the streets up to eleven o'clock in the day ? Yes, I may have seen an odd policeman.

Armed ? Yes, some of them may have had arms.

Now, cannot you answer me positively, without using the word " may ? " I am disposed to answer you as well as I can.

Did you see a policeman armed that day ? Some of them may have been armed (much laughter).

Mr. Fitzgibbon—You may go down.

RE-EXAMINED BY MR. SERGEANT WARREN.

Were they in their barracks that day, or about the town ? I do not know.

Now you were asked did you see Mr. O'Connell's pause---do you know what Mr. O'Connell's *paws* are ? I may have heard of the people being made cats'-paws of (a laugh).

Mr. Fitzgibbon—And that is an observation originally made by one of her Majesty's counsel, and now used by one of her Majesty's sergeants, as arising out of my cross-examination.



The witness was then ordered to go down, and the court adjourned at a quarter to five o'clock till ten o'clock the following morning.

### SEVENTH DAY.

The court sat on Tuesday at a few minutes past ten o'clock, Mr. Justice Burton being still absent from indisposition. The court was little more than half filled at the commencement of the proceedings. The names of the traversers and the jury having been called over.

JOHN MAGUIRE WAS SWORN AND EXAMINED BY MR. BENNETT, Q.C.

You are a head-constable of police ? I am.

Where were you stationed in the month of May last ? In Sligo.

Did you attend the Repeal meeting at Longford ? I did.

What day did it take place ? The 20th of May. It was a Monday.

Did you see the people coming into the town ? I did.

About what hour of the day was that ? Between nine and ten o'clock in the morning ; there were bands of music parading the streets.

You saw bands of music ? Yes ; they were playing " Patrick's Day," " the Irishmen," and " Garryowen."

Had they any particular dress ? Yes ; they had a kind of military cap.

The noise in the court being here very great,

Mr. Hatchell said---Speak out.

Mr. Bennett---If you can induce the gentlemen about you not to talk so loud, the witness can be heard.

Mr. Fitzgibbon---There is no one talking here.

Mr. Bennett---I tell you there are.

Mr. Fitzgibbon---And I tell you there are not.

Mr. Bennett---I did not refer to you at all, Mr. Fitzgibbon.

Mr. Ford---I was merely making a suggestion to Mr. Hatchell.

Mr. Bennett---Then you were doing the very thing I objected to (a laugh).

The Chief Justice---Mr. Ford, I do not think there is any necessity for your interference.

Mr. Fitzgibbon---There has been no talking here.

Mr. Bennett---Well, are you going to argue it ?

Mr. Ford was about to speak, when

Mr. Bennett, interposing---Mr. Ford, will you allow me to examine the witness ?

Mr. Ford---I have not the slightest objection.

Mr. Bennett (to the witness)---You were describing the band of music ? Yes.

Now, let the jury hear what you are saying ? They had military caps ; there were two bands ; one had red bands and tassels on their caps, and the other gold bands ; there was another band preceded by a man like a drum-major, with a large stick.

Did the people follow these bands through the town ? They did.

Can you form any estimate of the number of persons who were present

on that occasion ? To the best of my opinion, there were from forty to fifty thousand persons assembled on that occasion.

Was there any persons leading the people as they were coming into town ? I saw the people coming in in a kind of military order, led by a person whom, to the best of my belief, was a Roman Catholic Priest.

What do you mean by military order ? I mean that they walked in regular order, in rank and file.

Did you see any horsemen come in ? Yes, several.

When did they come in ? They came in along with Mr. O'Connell ; there were about a hundred horsemen.

How did Mr. O'Connell come in ? He came on the front box of a carriage.

Was it an open carriage ? No ; it was a closed carriage.

Was any one sitting with him ? Yes ; there was another gentleman sitting with him on the box. I believe it was Bishop Higgins ; but I did not know him.

Was there any one in the carriage ? Yes I saw Mr. Steele inside the carriage.

Was any one with Mr. Steele ? There was another person sitting in it with Mr. Steele, who appeared to be a clerical gentleman ; but I do not know who he was.

At what time did Mr. O'Connell come ? About two o'clock. He was preceded by three or four bands playing before him.

Did you observe any green boughs on that occasion ? Yes, I saw boughs on the houses, and some persons held boughs in their hands, waving them and shouting.

Did you see any sticks ? Yes, some of the persons I saw coming in had sticks, and brandished them while they were cheering.

How long did these proceedings, I mean the meeting, continue ? Until about four or five o'clock, when the meeting terminated.

Did you happen to get near the platform ? Yes.

Were there a number of persons on the platform ? Yes ; a great number of persons were on it. The platform was a very large one.

Could you point out any of the traversers you saw there besides Mr. O'Connell and Mr. Steele ? No.

Did you take any notes of the proceeding ? I took notes of the mottos and banners ; but High Constable Johnson was with me, and as we could not conveniently take notes of the proceedings together he took notes by my directions.

You then have notes of the mottos and banners ? Yes.

Was there any motto on the platform ? Yes ; the motto " Ireland for the Irish and the Irish for Ireland," was placed conspicuously there,

What other motto did you see ? In other parts of the town I saw—" Nine millions of people are too great to be dragged at the tail of any other nation." It was on a large piece of calico or linen on the Dublin road.

At what time did you see that motto ? I saw it after the meeting.

Did you pass that road before the meeting ? No ; I did not pass until after the meeting, when I saw the inscription.

What other mottos did you see ? " He who commits a crime gives strength to the enemy."

Are you sure the word enemy was there? Yes, quite sure, There was also the words "*Cead mille failthe*" in another place.

Did you hear Mr. O'Connell's speech on that occasion? Yes.

Would you mention any parts of the speech which you may happen to recollect? He said "This was no vain cause."

Did you hear Mr. O'Connell say anything about trial by jury and the administration of justice? I have no distinct recollection of the words he used; but on the day after the meeting I read---

Mr. Hatchell---No one has anything to do, sir, with what you read.

Mr. Bennett---I do not ask what you read, but what you recollect.

The witness was again about to proceed, when he was interrupted by

Judge Perrin---Are you now about to speak from your own memory, or from what you read in the newspapers?

Mr. Bennett---Tell only what you recollect yourself.

Witness---Mr. O'Connell said, to the best of my memory, "They take the commission of the peace from your respected supporters."

Mr. Bennett---Do you recollect anything else he said? His concluding sentence was:—

"Go home quietly, and tell your friends what you have heard here to-day, and to be ready to come when I want them again."

When the people were coming in did you see any stick with them? I saw some people brandishing sticks as they were coming in.

After Mr. O'Connell had made his speech did you see any brandishing of sticks? The witness, as well as we could hear his answer, said he did not observe any.

Mr. Fitzgibbon---I appeal to the court whether that question was put in a legal way or not.

Judge Perrin--The question has been answered, and what harm has been done?

Mr. Fitzgibbon---It has turned out, my lord, that the answer could do us no harm, but that does not prevent the question put by Mr. Bennett from being illegal.

Mr. Bennett---It is for the court to say whether the question be legal or not, but you have no right, sir, to decide, or to pronounce that my question was illegal. I insist that I was right in putting the question, and I adhere to my right.

Mr. Bennett (to witness)---After the speeches what did the people do? They all dispersed quietly after the meeting.

Do you happen to know where the bands came from? The persons in the house where I was---

Mr. Hatchell---You are not to tell what you do not know yourself? Then I do not know where the bands came from of my own knowledge.

Chief Justice---Did you say how many persons attended the meeting? Between forty and fifty thousand, but it was impossible to form an idea of the number.

#### CROSS-EXAMINED BY MR. HATCHELL, Q.C.

Are you in the constabulary? Yes.

What rank do you hold? I am first head-constable, which is next in rank to a sub-inspector.

There are some grades, though, before you arrive at that honour? Yes; there is the head constable of a county, who is next to the sub-inspector.

When did you come to Longford? On the 27th of May.

The meeting was on the 28th? It was.

Did you come with Mr. Johnstone, the gentleman examined yesterday? I did.

Did you see a report of his evidence in this morning's papers? No, I did not; I saw it last night.

Have you been in the army yourself? Never.

You appear to have been posted in some house near the platform, for the purpose of making observations? Yes; I got into a house which was convenient to the platform.

And from thence you were looking out on the proceedings? Yes.

Did you observe any breach of the peace? None.

Nor any tendency to it? I saw no breach of the peace committed.

Upon your oath, sir, is that an answer to my question; why did you evade the last question I put to you; I wish to ask you fairly about what you saw, and I expect you'll answer me candidly. If you do not, we must proceed differently, and act reciprocally? I desire to answer candidly.

You must answer me candidly. I take for granted you are not a Repealer, *Captain Maguire*? (a laugh.) I don't belong to any system.

Mr. Bennett—That is a fair answer. He belongs to no class of politicians.

Mr. Hatchell—Well, not having seen a breach of the peace, or a tendency thereto, "Othello's occupation was gone"—wasn't that it? We did not go there to preserve the peace, we went there to make observations.

That is the first object of a good general, you know, to make his observations of the enemy and see how the land lies? We were desired to make our observations.

Are you not under the control of the sub-inspector? Yes.

You were not sent there to preserve the peace, but to make observations? Yes.

You saw people marching in military array, and shouting, and dancing, and kicking up their heels? (a laugh.) I saw them marching in military array.

Were you often in a fair? I was.

Do you mean to say you never saw people there brandishing their sticks angrily? No.

Did they brandish them angrily coming into Longford? No, they did not.

Well, then, there was no quarrelling among themselves? No.

How were they coming into town? They were coming alone, side by side, in parties, as soldiers marching in military array.

Did they shoulder their sticks? No (a laugh.)

Do you understand military exercises? A little.

Had they anything on their shoulders? No.

Did they come to port? (a laugh.) No.

Did they present arms to welcome the general? (a laugh.) No.

Did they charge? (great laughter.) No, they did not.

Well, then, they did not shoulder arms, port, present or charge ? (loud laughter.) I did not see them do any of these things.

Did not you say you saw them marching in military array ? I only said they were marching.

Did they halt ? (a laugh.) They did.

Was there a lame man amongst them (laughter.) I don't know.

Where did they halt ? They halted at the platform.

That was because they could go no further, I suppose ? I suppose so.

Did they stand at ease ? (laughter.) Yes.

When they were tired, I suppose ? (a laugh.) I don't know.

So they halted when they were tired ; stood at ease when they could go no further ; and you call that marching in military array ? (great laughter.) Do you know the first movement in military tactics ? To march.

Were you ever at drill ? (a laugh.) I was a little.

Must you not put your left leg forward ? (laughter.) Yes.

Now put your left leg forward and answer me. Upon your oath did they put their left legs foremost on this occasion ? I did not see them marching.

Mr. Bennet suggested that the witness should wait until the noise ceased in the court before he gave his answer, as it was impossible to hear what he said in consequence of the laughter.

Mr. Hatchell---Let them laugh away until to-morrow if they choose.

Mr. Bennett---I beg your pardon.

Mr. Hatchell---You were angry with Mr. Fitzgibbon a while ago, and don't be angry with me now for being pleasant (a laugh).

Did you ever read Dundas on military manœuvres ? I did, parts of it.

What parts of it did you read ? I forget now ; I read some.

Well, having gone so far in your military tactics, will you tell me what you mean by rank and file ? Two deep

You are too deep for me (a laugh). Upon your oath were the people marching two deep or rank and file ? The witness hesitated, and gave no answer.

There is a man who read Dundas (laughter). On your oath did you mean to tell me that all the men who came into Longford marched two deep ? I did not.

Then they did not march rank and file ? Some of them did.

But you said all did ? Some of the parties did.

How many were in a party ? Some of them were more, and some were less.

What do you mean by "some more and some less ?" Tell me the largest party ; and will you tell that jury, on the oath you have taken, that they all marched two deep ? Well, sir. I say ill, sir (a laugh).

I asked you a plain direct question ; will you swear that every man of that large party who came into Longford on the day in question marched two deep ? A great portion of them did.

You said that all came in marching in military array ? Parties exceeding one hundred may have done so.

Well, we will take one hundred ; and now, upon your oath, did they come in two deep ? Some of them did.

I am talking of a party of one hundred, of whom you spoke, because I..

want to try your notions of military knowledge, Upon your oath did the women march in two deep? Some of the parties came in a kind of military order.

Did you not swear they marched in rank and file; or do you understand the term at all. Now listen to me; will you swear that any one of these parties came into Longford marching in military array, like soldiers going to mount the Castle guard? Some of them did.

Upon your oath will you name any one of the parties who did so? I cannot describe one party from another.

On your oath was there not a number of women there? There was.

Did they not come into town with the parties? Not with the parties I described.

Will you swear there was one party came in without women? They might have followed them.

Were there not women and children with them, sir? There might have been.

I am not asking you what there might have been, but what you saw, Captain? There were women and children following the music in the rear.

Were not the women beside the men? In some cases they were mixed with the men.

Did not you tell me before that the men had not any women with them? These were not the men I described before I said——

Mr. Hatchell (interrupting him.)—Upon your oath, sir——

Mr. Bennett—My lord, it is not fair that the witness should be entrapped in this manner, before he has time to give his explanation.

I don't want to entrap him; I only wish to get a fair and honest statement from him. Now, sir, you talked of seeing a drum-major there.

Do you know what a drum-major is? I do.

In what respect did the person you saw resemble a drum-major; had he a silver-headed cane? He had a large stick in his hand topped with silver, or something like it.

Were you aware that he was a band-master? No.

Do you not know that they were comprised of various temperance bands? They were all strangers to me; but I was informed that they were temperance bands; I cannot speak from my own knowledge.

I think you said that they people all retired quietly when the meeting was over? They did.

At what hour did the meeting separate? Between four and five o'clock in the evening.

John Jolly was the next witness sworn and examined by Mr. Brewster, Q. C.—

You are in the constabulary, I believe? I am.

Where are you stationed? Cork, East Riding.

Do you remember the meeting at Mallow in June? I do, sir; it was held on the 11th June.

Did you attend that meeting? I did.

On what day of the week was it held? On Sunday.

Were you dressed in uniform at that meeting? I went to it in my uniform, but afterwards changed it to plain clothes.

Did you dress in plain before the meeting had commenced? I did.

At what hour was the meeting held? I think about three o'clock it commenced.

Before the meeting commenced, did you see any procession? I did.

Where did you see that procession? I saw it pass through Mallow, in the direction Mr. O'Connell was expected to come.

What road was that? I do not know the name of it, as I was a stranger there.

Was it a large meeting? It was a very large one.

Did you see any bands of music there? Several.

Were there persons on horseback in the procession? There were.

In what manner did those forming the procession proceed to the meeting? They marched in regular order, with bands and banners; bands playing and colors flying.

Did you observe anything remarkable amongst those forming the procession? Several had cards attached to their button-holes, and others had papers round their hats, with "O'Connell's police" printed on them.

In what manner did the people march? They marched four or five deep, or abreast.

How did the horsemen proceed? Much in the same regular order as the others.

Were there any persons in the procession that attracted your attention more than others. Yes.

Who were they? They were persons who walked out-side the ranks, and gave directions to the others.

Had they anything particular to distinguish them from the others? Yes; they carried wands in their hands, with ribbons tied at the top of them.

After the procession left Mallow in the morning, did you see it again that day? Yes; it was late in the evening when it returned.

Did you observe any persons when the procession returned, that had not accompanied it from Mallow in the morning? Yes; I saw Mr. O'Connell and Mr. Steele.

In what part of the procession, did you see Mr. O'Connell and Mr. Steele? I did not see them in the procession, it was on the platform. I saw them.

In what part of the town was the platform erected? In a large open space, near the shambles.

Did you get near the platform? Yes; I stood within about ten yards of it.

Did you take any notes of what occurred there? I did not.

Can you form any calculation as to the numbers of people that were present? I should say that there were some hundreds of thousands.

Did you hear Mr. O'Connell's speech? I heard a part of it.

Are you able to state with certainty anything that you did hear? What I did hear I can state with certainty: before I got to the platform I was told that he had been occupied in reading an address; he then said he came there to tell them a secret, and he thought there was enough of them there to keep it; he said the union should be repealed in some time or other that I cannot recollect (laughter); he named the time, but I could not hear.

it; he then said we should have Ireland for the Irish. They might have England for the English, and Scotland for the Scotch; but he was determined to have Ireland for the Irish. He also said that they were too determined and too temperate for it to be kept from them. He then said that the English House of Commons was the greatest pack of brides on the earth, and he then proved it by some authority. He asked them did they ever hear tell of the man with the ugly name? it was Sugden, and he would not call a pig by such a name; and as for the lord lieutenant, he was so ignorant that he sent a commission to Kilkenny to inquire if it was a seaport!

What followed? In alluding to the police, he said, that having seen some members of it among the crowd, he would, if they were afraid of any riot get his own friends to preserve the peace. He also said that the soldiery had been sent among them to shoot them, but that they knew a trick worth two of that; and if they were attacked they would defend themselves. He said that the serjeants of the English army were the finest body of men in the world, but the worst treated; that the French serjeants were generally raised to the rank of an officer.

What did he say of the French army? He said that the serjeants in the French army were better treated than those in the English army.

In what respect did he say they were better treated? By being promoted to the rank of an officer.

What further did he say? He was telling the crowd what would be the effects of Repeal, and he said that the repeal of the union would make the day-labourers farmers, the farmers gentlemen, and the gentlemen members of parliament (laughter.) He asked the people would they be ready to come again if they were required by him, and to hold up their hands if they would.

What happened then? The crowd held up a forest of hands.

Did he say anything else? He said when they were asked to come again they should come armed, he then paused, and added that the arms they should bring were Repeal cards.

How long did that meeting last? I think not more than two hours.

During the meeting did you observe anything particular? What attracted my attention most before the commencement of the meeting was, that a person on the platform called out to others in the crowd to remove a man who he said was an enemy. That individual refused to go away, and the people were then called on to cut the reins and to remove him. I cannot exactly say if the party referred to was on horseback in consequence of the position in which I was placed, but from the word reins I infer that he was on horseback. That was immediately before Mr. O'Connell's arrival.

#### CROSS-EXAMINED BY MR. WHITESIDE.

Are you acquainted with Mr. Johnson and Mr. Maguire? I have met them occasionally.

When did you last see them? I see Mr. Maguire now in court. I saw Mr. Johnson last evening.

Did you know that they were here to give evidence on this trial? I did.



When you met Mr. Johnson last night had you any conversation respecting the evidence he had given? We had not; as soon as I came up to him he said he should return home to where he was staying, and he went away.

You saw these two persons every day during the progress of this trial? I did.

What rank do you hold in the constabulary? I am a head-constable.

You are not an officer? I am not a commissioned officer, but a non-commissioned one.

Are you one of the ill-treated sergeants? I don't consider myself ill-treated.

Where are you stationed? I belong to the Ballincollig station, in the county of Cork.

What newspaper do you take? I don't take any newspaper; I am glad to read anything that I get.

Did you read a report of the Mallow meeting in the *Cork Constitution*—you know that is on the right side? I have no recollection of reading a report of the Mallow meeting in that paper or any other.

Will you swear that you did not? I cannot now undertake to swear that I did not.

Will you be able to tell me whether or not to-morrow morning? I will not.

Will you say that you have never read a report of the meeting at Mallow in the *Cork Constitution*? I have no recollection of having done so. I may, however; but I cannot bear it in mind.

Was it in consequence of any instructions you received that you attended the meeting? I was ordered to attend, and I obeyed my instructions.

Were you in the town the night before? I was not.

Upon your arrival in the morning you walked about the streets in your regimental dress; am I to understand so? Yes, I did.

Some of the police were with you? They were.

What is the name of the sub-inspector at Mallow? Mr. Anderson is the sub-inspector.

Was he out that day? He was.

And I believe he was as well acquainted with Mallow as you were? I think he must have been, as that was his station and not mine.

And at about eleven o'clock you undressed? No; the procession was going through the town when I took off my uniform.

What time did you leave the streets for the purpose of undressing? I cannot be particular as to the hour; I was, with about a hundred policemen, in the barrack square, and it was there I undressed.

Oh, I have a curiosity to know the precise time. You know you have been particular as to the words of Mr. O'Connell, and you must be equally so as to the time of your undressing; might it have been one or four o'clock? I cannot state exactly; I think it was between one and two.

Where did you walk in your police uniform? I walked about the streets of the town.

How much of the procession did you see pass? I think about one-half of it.

Was it the former or latter half of it? The latter half of it; I was in the police station, and saw it go out of the town of Mallow.

Are you a military man? No, I am in the constabulary.

Oh, I see; you have fought no battle; your's have been all civic honours (laughter) I think you stated that the procession marched in regular order, the bands playing and banners flying? I did.

Did you take a note of that at the time? I did not.

Then you spoke from the impression made on your mind? I did.

Now, when you saw this great and imposing array marching in procession, may I ask were you afraid? Oh, not at all.

Was the procession what is called a close column? They marched four deep.

Probably you can tell me what tunes were played by the bands? I cannot.

Well, now, on this subject too I have a great curiosity, and I would be glad to know from you whether it was Paddy Carey, or Paddy from Cork that was played. I cannot tell.

Will you swear that it might not have been God save the Queen? I will not swear as to the tunes that were played.

Is your ear so dull to all impressions of sweet sound and soft music, as to leave no impression upon it (laughter). Are you a native of Cork. I am not.

Was the procession a military or a civil one? The people were quite civil.

There we quite agree. Did you wait until it had all passed? I did.

And you then went to the place of meeting? I did.

I am not asking you if anything particularly wicked was said or done there; because if there was I am sure it was brought out by the gentlemen at the other side; but I think you said that the horses appeared in regular order.

Am I to understand that they had been well fed; that they were fat and well groomed (laughter)? I did not observe that they were fat or otherwise; I spoke of the order in which they proceeded.

Where were the canon and the musketry, or what became of the dead and wounded (continued laughter)? I did not observe any canon or musketry with the people, and I did not see any one killed or wounded.

You said that the horses went in regular order? I said that the horses went five or six abreast, and that I call regular order.

Were there any ladies there, and children? I saw several women and children present.

Did they charge you, or did you charge them (laughter)? They did not.

I believe the women came to the meeting principally on pillion behind their husbands? A good many of them came so.

Had the women their arms round the men? Yes.

Do you think that was an offence against the arms act (laughter)? I don't know that; I don't know the law.

Were there any Cork women there? Yes.

The Cork women are handsome, are they not? Why, yes, they are.

Then, you had an eye to the handsome women? I liked to look at them.

Then, there were banners flying, horsemen marching, women joking, and children laughing at the fun ? I don't think there were any children in it ; they would be too much pressed by the crowd.

Were there temperance bands there ; or *timperance*—perhaps you understand it better ? I do not understand *timperance*.

On your oath, you don't understand *timperance* ? No (laughter.)

Were there temperance bands there ? There might be.

On your oath whether do you think it better to be playing music, or drinking bad whiskey ? Oh, certainly better to have the music.

Then if the people play music they are to be prosecuted, and if they drink whiskey they are to be prosecuted ; don't you think that is too bad ? I cannot judge of that.

Did you see during the day anything done but music played, or hear anything but some pleasant speeches, eh ? I have seen what I have stated, but no more.

Did you make any report of what was said by any of the speakers ? No, I took no report.

Then you speak from memory ? Yes.

Did you take a refresher that day, that is, did you make yourself comfortable ? I was not thinking about that so much.

Come now to Mr. O'Connell's speech, and tell me why you went to hear it when you took no note of it ? I had a wish to hear the great counsellor speak (laughter.)

Then if you have a wish to hear another great counsellor speak, wait till you hear Mr. Hatchell (laughter.) Now tell me about the pause in Mr. O'Connell's speech ; it seemed significant in the eyes of a policeman---eh, did it ? No, I cannot say it did.

What do you think ought to be the punishment for a pause---transposition, I suppose ? Oh no, I would not say that.

Would you have a wish to hear a great orator who never pauses ; if you have, wait till you hear Mr. M'Donagh (loud laughter.) Do you know a gentleman who was examined here yesterday, named Johnson ? I have seen him here.

Do you know that he too gave evidence about a pause, a significant pause ? No, I do not know that he said anything about it.

Tell us, again, exactly at what particular word the pause was made ? It was at the word armed.

Well, then, he said with Repeal cards ! Armed with Repeal cards ? Yes, with Repeal cards (laughter).

Did you nudge the fellow next you when you heard the word armed used ? Oh, yes, I did ; I nudged him to get out of my way (laughter).

Did he not say something about the serjeants in France ? Yes, he said that serjeants were promoted to be officers.

Did that tickle your fancy ? No, not in the least.

Were you not glad to hear of serjeants being promoted. Did you not prick up your ears at hearing of serjeants becoming an officer ; a meritorious, active, useful serjeant ? No, I did not.

On your oath don't you fully aspire to the just promotion to which your merits entitles you ? Yes, I do, why not ; but it is for the inspector-general to judge of that.

Then, don't you think that it would be a reasonable expectation that you should not always remain a serjeant ; but that you should, in course of time, be promoted to the rank of sub-inspector ? I would think that a very reasonable expectation.

Then you would be raised to the rank of a gentleman ? Yes.

Are you a Repealer ? No.

Why not, as you would, when Repeal comes, be elevated to the rank of lord ? You know Mr. O'Connell said that all the gentlemen would be lords ; now, what title do you think you ought to get ? I do not know that.

Do you not think that Lord Ballincollig would suit you ? (loud laughter), Now a little more about the pause ; on your oath, whether do you think it was sedition, treason, conspiracy, or flat burglary ? (laughter). Give us your opinion ? I cannot tell what it meant.

Now were you joking when you told us about the house ? I never joke when on my oath.

You say you heard some country fellow on the platform tell some one to go out of the crowd, or if he did not his throat ought to be cut ? I did hear that.

Can you tell what the fellow was doing in the crowd ? I did not see him at all.

Can you tell whether he was on horseback, or had a cart in amongst the people ? I cannot tell.

Are not these bad times for policemen down in the county Cork ; no rows, no breach of the peace, all quiet, nothing doing ? It is odd enough, the less I get to do the better I like it (laughter).

Did not you tell us you never joked when on your oath ? That is no joke (continued laughter).

Well, then, you have not much to do in the south of Ireland ; not much pressed for business ? Pretty well pressed that day.

There again you forget what you said about not joking on your oath ? I am not joking now either.

Well, then, was it by ladies or gentlemen you were pressed that day ? I don't think that either were in it.

Well, then, were there any of the pretty Cork girls in the crowd that you pressed into a corner ? There was no corner in it ; I was amongst the great body of the people.

Well, there were some pretty country girls there very near you ? Oh, there were of course.

You lost no limb or arm that day ; or even a bit of your whisker ? No ; there was no fighting in it.

Was your whisker even ruffled ? I cannot say it was.

Where did you dine that day ? Indeed I forget.

Perhaps it was because the dinner was not a good one ? Very likely.

Where did you sleep that night ? I do not remember now.

Did you get a comfortable bed to repose upon after the day's hard toil ?

Indeed I think the bed was rather a hard one.

Did you bear in mind all that occurred on that eventful day ; or did you think no more about it ? Why, I thought no more about it at that time.

When then were you applied to by that grave looking gentleman opposite (Mr. Kemmis), to be a witness? In the month of December last.

Then you thought nothing about the great day at Mallow, from June until December, when Mr. Kemmis found you out? No; I cannot say I did.

Were there not several respectable persons who reside in Mallow, who went to see the meeting that day? Of course there were.

There are Whigs and Tories in that town who saw the meeting? Yes; of course.

People of property and station resident in the neighbourhood? Yes; I suppose so.

Are there any of them here to-day as witnesses? I cannot tell.

Well, all you can say may be summed up into this, that you paid a flying visit there. You were pressed by the ladies; you observed a pause in O'Connell's speech; so I will pause here, when by wishing sincerely that you may get the promotion you so truly merit, you may go down.

#### RE-EXAMINED BY MR. BREWSTER.

Where was Mr. Anderson during the meeting? For a while he was in the barrack-square.

Was that nearer the meeting than you were? No; for a part of the time he was in the court-house.

Mr. Whiteside objected to that line of cross-examination—where Mr. Anderson was, or what instructions were given him did not affect the traversers.

Mr. Brewster—I merely want the fact, where Mr. Anderson was placed.

Was he nearer the speakers than you were? No; he was twenty or thirty yards from the speakers, and from his position he could not hear well.

Henry Godfrey was the next called, and was examined by Mr. Freeman.

You are a constable, and were so in August last? Yes sir.

Do you remember the 6th of August last, Well, sir.

Where were you on that day? At Baltinglass.

Were you stationed there? No, I was stationed at Glenard, about eight miles off from Baltinglass.

Were you ordered to Baltinglass on that day? I was.

Were you there in the evening or in the morning? I arrived on the evening before.

The 6th was Sunday, I believe? It was.

What did you see on the 6th of August--did you see many people? Yes I saw a great number of persons.

At what time was it? Between twelve and one o'clock.

Were they in the streets or where? I saw them coming in waggons on the road from Rathfilly.

Had they any music? Yes; there was one band.

Did you see any person in particular? Yes, I saw the Rev. Mr. Nolan.

Had they any banners; and can you recollect any of the inscriptions? I saw several banners; but I do not recollect the inscriptions; I took no note of them.

Did you hear the Rev. Mr. Nolan give any direction? Yes; he was going in the direction of the meeting place; and when he got near the waggon in which the band was, he told the people to go and meet Mr. O'Connell.

Did you hear any observations made by the people? Yes; one man said, "these shouts are frightening the pigeons;" to which one or two others replied, "yes, and the protestants too."

Was that before or after the directions given by Mr. Nolan? That was about the same time.

How soon after did Mr. O'Connell appear? Not for some time; the band and the people then went away to meet him.

Were you dressed as a constable, or in plain clothes? I was dressed very much as I am now.

In plain clothes, then. You were at the meeting—at what time was it? Between twelve and one o'clock.

Was Mr. O'Connell there at that time? About that time I met him coming into the town.

Well, did you hear any other observations fall from the people? Yes; one said that was the day that would frighten Saunders.

Is Saunders Grove the residence of Mr. Robert Saunders, near Balinglass? Yes, sir, it is about two miles from there.

Who did you see at the meeting? I saw Mr. O'Connell and Mr. Lalor, Mr. Nolan, and Mr. O'Farrell.

What is Mr. O'Farrell? He is a Roman Catholic curate of Glenard. A Mr. Copeland, of Dunlavin, was chairman that day.

Did you see any one else? I saw a gentleman, whom I was told was Mr. Steele.

Would you know him? Yes. Then look round the court and point him out. [The witness identified Mr. Steele.]

Now, witness, do not state anything which you do not distinctly recollect. Do you recollect Mr. O'Connell saying anything? I do.

What did Mr. O'Connell say? Mr. O'Connell said he did not despair of getting Repeal, when he found the clergymen and the people were determined upon it.

Did you hear him say any thing else? I heard him say that what he intended to do when the meeting was over, he was not going to tell now.

Did you hear him state anything else? I heard him also state that there were millions of money going out of the country. I heard him say that the taxes were to be paid out of some fund.

You heard him state that tithes were to be paid out of some fund. Did you hear him say any thing else? ("No," from the counsel for the traversers—"taxes"). I heard him say something about Lord Wicklow, but I cannot exactly remember what it was. I also heard him call Mr. Fenton the bog-trotting agent.

Is he agent to Lord Wicklow? He is.

Did you hear any thing more? I do not recollect.

Did you hear him speak to the people respecting their meeting here again.

Mr. Fitzgibbon—Now, is this question important?

Mr. Freeman—I do not see why you can object to my putting it.

I do object; and after the suggestion of the word "tithes" to the witness just now, which word he never used, I have a right to object.

I heard the witness distinctly say "tithes."

He used no such word.

Did you hear the word "tithes." (The answer did not reach us.

Now tell me did you hear anything said about repeal?)

Mr. Cantwell asked the court whether he was not at liberty to suggest that this question was not admissible?

Mr. Fitzgibbon---I would suggest that this cannot be anything but a leading question.

Mr. Cantwell---I object to this question.

Chief Justice---This is most irregular, Mr. Cantwell.

I beg to appeal to your lordship. I only thought it my duty to bring it under your observation.

Chief Justice---If you persist, sir, you shall be removed from the court instantly. It is not your duty to interrupt the proceedings in court, where you have counsel.

Examination resumed by Mr. Freeman---What was the first observation of Mr. O'Connell. I cannot recollect the speech; but I think it was, "If I should come again, will you be all at the meeting." I cannot state distinctly whether it was, "If I should come," or "I will come."

Did you hear the people use any expression then. I did.

What did you hear him say? I heard him say he would get repeal; and he would not get a refusal, as they were all sober and determined men.

Did you hear any other expressions of Mr. O'Connell's? No.

Did you see that a Mr. Lawless, a Roman Catholic clergyman? I did.

Did he say anything. I heard him say that tithes would be done away with; and he talked of travelling to Dublin with some clergymen; he said if they were civil they would get their tithes during their lives.

About what time did the meeting occupy. About an hour and a half or two hours.

How many people were there present at it? I cannot say.

Cannot you say about what number were there? No, I could not say, because I was in the crowd; there were a great number of people there, but I could not see them all.

Were you alone at the meeting? No, there was another man with me sometimes, and sometimes not.

#### CROSS-EXAMINED BY MR. FITZGIBBON.

Were you a stranger at Baltinglass? No; I was acquainted with the place for ten or eleven years.

You were in the police? Yes, I was.

How long have you served in the police? Twelve years last month.

While you were there you have walked out in your police dress? Always; part of the time I have been stationed at a place fourteen miles from it.

And you were not molested at this meeting? No.

You were not insulted in any way? No.

No bad expressions used towards you? No.

There was no attempt made to order you out of the crowd, or to prevent you from taking any place you pleased? No.

You might have gone to the foot of the platform ? Oh, yes.

Like any other person, in fact ? The same.

Can you tell me, did you hear any expressions about pigeons ? Not any.  
I understand you to say, that Mr. Nolan was near you ? He was, before the crowd.

Was the person who talked of Repeal, and who said that the meeting would frighten the Protestants, near you ? He was ; to the left.

How far to the left ? I suppose about a yard or so.

Did you see that man ? I did.

Were you within a yard of him ? Well ; I think I was.

He said it aloud, did he ? He did.

You were placed near him, and within one yard ? Yes.

Did you do anything ? Nothing in the world.

You did not mark the man's face ? No, I did not.

Did you ever see him before ? No.

What kind of man did he appear to be ? He appeared to me to be a countryman—to be dressed as a countryman, with a frieze coat.

Where was the man who talked about the pigeons ? He was on the footpath ; I was behind him.

You cannot name any one who heard that expression but yourself ? I can not.

You cannot name any person who was near you who heard the expression ? There were millions of people there (laughter) whom I did not know.

And you mean to say that you saw millions of people, and that you did not know any one who heard the expression ? I made it my business to keep out of the way of the people who would know me.

Now, do you seriously say, upon your oath, that you endeavoured to to avoid the eyes of those who knew you ? I do.

Although no expressions were used towards you hurtful to your feelings—although no one word was uttered against you, and although you saw numbers who knew you, and whom you knew ? Yes, I saw a great many who knew me.

Listen to me ; what did you do to avoid the eyes of those who knew you ? When I saw them in one place, I shifted from it to another part of the crowd.

Listen to me now, my good fellow, for a moment ; did you expect that shifting through the crowd was the way to escape been seen, eh ! Mr. Policeman ! I did.

Did you stoop your head ? No.

Did you hide your face ? No.

Then what you did was, whenever you saw an acquaintance, to shift away through the crowd ? Yes.

Had you any trouble in doing that ? No ; I asked my way through the crowd.

And the whole way you hid yourself ? I endeavoured to move away.

And that is the way you endeavoured to hide yourself from your acquaintances ? Yes.

Did you find a place in the crowd that day where you did not see the face of a man you knew ? I did.



Where were you then I was in front of the platform.

Far from it? I cannot say how far.

Ten yards? I was, and more.

Twenty? Sometimes twenty, and sometimes ten.

Oh, then, I see you used to slip about, having found the desirable spot where no person you knew was in view? I was in different parts of the crowd.

You found in different parts people who did not know you Yes.

Tell me where you were in the crowd when you heard the expression, "This is the day that will frighten Saunders?" I was opposite the court house, on the road to Baltinglass.

That was on the mail-coach road? Yes.

Had you passed Hughes's house? Yes; I was going on the road from Baltinglass, leaving Hughes's house on the left hand.

Was there any acquaintance near you when you heard the expression? No.

I venture to say that you cannot name a man, woman, or child who heard the expression but yourself? I cannot.

How far were you from the person who used these words? I was standing close to him.

Then you might have seen him? If I was so disposed I might. I saw his face; he was rather a young man.

Did you know him? I did not.

You cannot now tell who he is? No.

Did you ask him his name? No; I did not think it my duty to do that.

When did you recollect the expression? That day; I made a note of it before Mr. O'Connell had left the meeting.

Then it was between the time of holding the meeting and the time you heard the expression that you made the note? It was.

Where did you take the note? I moved one side, and took it when I got out of the crowd.

Show me the note? (No answer.)

Show me that note? I have not got it here.

Now, did you not, in your evidence to the jury, look at that book and pretend to read from your note? [No answer.]

Listen to me; did you not pretend to read from your note? I did, and I have it here.

Is that the note you wrote on the road-side? [After a pause]—No, it is not.

Did you not, on your oath, tell the jury that you made the note that day? Counsel here repeated the question.—[No answer.]

On your oath, do you mean to tell the jury that you did not make that note in your hand on the day of meeting. [After some delay]—I do not understand you.

Now, do you believe that my question was about the paper you have in your hand, or about a paper which I had not seen. I asked you—did you not tell the jury that you made the note at the time? I cannot answer your question, for I do not understand you.

Where is the note you made that day, if you made any? I wrote this from my notes.

Where are the notes you made ?

The Solicitor General interfered, and said Mr. Fitzgibbon was not acting fairly towards the witness, part of his answers not being heard, from the rapidity with which he put the question.

Mr. Fitzgibbon—Mr. Solicitor General, do not say that I am not acting fairly towards the witness.

The Solicitor General—You interrupt his answers.

Mr. Fitzgibbon—I beg your pardon ; I do not interrupt him. I will take issue upon that (a laugh).

The Solicitor General—It is hardly fair to the witness to keep back a part of his answers.

Mr. Fitzgibbon—I don't want to prevent a single word of his answers going to the jury.

Now, witness, answer me. Where is the note you wrote this from ? I think it was burned.

I see, dead men tell no tales. When did you burn them ? When I went home after the meeting.

When was that ? After I gave in my report, I compared it with the notes, and saw it was correct.

When did you compare it ? I sent in my report the morning after the meeting.

Now, did you not speak of a few days ? I compared it at the time I wrote my report, and then when I went home, lest I should have made any mistake, I compared it again.

Were you ordered to take notes of what occurred at the meeting ? [A pause].

I am giving you time enough to answer the question.

Question repeated. I received orders from my sub-inspector. Some of them were very long, and I don't recollect them at all.

Is that an answer ?

Mr. Bennett—It is impossible for the witness to give answers to those questions. You put an end to them before he has time to answer them, by asking another.

Mr. Fitzgibbon denied that he interrupted the witness's answers.

Were you ordered to take notes of this meeting ? I was ordered to take notice of any particular statements.

Did you mistake my words and suppose I meant "notice?" I don't recollect being ordered to take notes.

Is that true that you went on one side to make these notes. Look at the jury, and tell me whether you mean to say that you went on one side of the road ? No, I went down away from the crowd.

On the side of the road ? Yes.

Inside the ditch ? No, outside the ditch.

Was there not a great crowd there ? No ; the crowd was not so great there.

What time was it ? Before Mr. O'Connell came out ; there were some people waiting in the ditches till Mr. O'Connell came out.

Had you a pen ? I had a pencil.

And a book ? No ; a piece of paper.

Then you went prepared to take notes ? I did.

Will you repeat the expressions again for me? "This is the day that will frighten Saunders."

Is that what was said? Something to that effect.

Read what is on your note? I heard several people say "This is the day that will frighten Saunders;" I heard words to that effect from several. I heard others say, "This is the day that will frighten him;" some said "Devils cure to him, he would not allow them to join the repeal."

Have you any note of that? No.

Are you not after telling the jury that you made a note of the proceedings on the spot? I made a memorandum from which I took my report.

And the original note or memorandum you say you burnt? Yes.

Now is the book in your hand the same as the reprint which you sent into your office? I cannot say that it is exactly the same.

Mr. Freeman---This is the report which the witness sent into the office, and I submit, my lord, that Mr. Fitzgibbon has, no right to ask the witness any question relating to the contents of that document without placing it in his hands. A witness can no more be required to swear to the contents of a paper in his cross-examination than in his direct examination, without having the paper put into his hands. I, therefore, contend that the witness in the present instance has a right to have this report in his hands before he answers Mr. Fitzgibbon.

Mr. Fitzgibbon---I merely asked the witness if the report which he delivered in was the same as that which he had in his book, and not what was in it or not in it. I asked him as to how he made it out; whether the report was made out from the book or the book from the report. And the rule in the case being founded on a plain principle of reason, as it ought to be is simply such, because, as the accuracy of the witness may be defective, it is not to be taxed too much, his examination being a trial of his veracity and not of his memory. There is a total misunderstanding of my question on the other side.

The Attorney General---There is not the slightest misunderstanding of Mr. Fitzgibbon's question on our part, and with great submission I contend that his question is utterly illegal. In the Queen's case it was decided that the witness could not be examined on the contents of a paper, without having the paper in his hands, and I contend that the question put by Mr. Fitzgibbon is tantamount to one about the contents of the paper; and I am resolved to have the opinion of the court as to its illegality.

Mr. Fitzgibbon---That was not the question which I put.

Judge Crampton---The shortest way, Mr. Fitzgibbon, would be for you to put your question over again.

Mr. Fitzgibbon (to the witness)---Now, without looking at the papers in your hands, tell the jury whether you copied the book in your hands from the report, or the report from the book? I copied the report from my notes, and the book from the report, but I cannot say they are exactly the same.

Did you copy the book from the report before you sent the report into the office? Yes.

Are you quite sure of that ? I copied the report from the notes, and before I sent it in, I made a copy of it which I brought home with me to the station, and I copied the book from that.

What became of that copy which you brought home with you ? I dare say it is at home.

Are you quite sure that you have not it with you ? (Witness searched his pockets, and produced the copy of the report.)

Have you the expression, "The devil's cure to Saunders," in that report ? No.

Why, you have not read it to try ; don't you think it worth your while to look into your report, to try whether it contains that expression ? I know it is not in it.

Where did you write out the report ? In a house at Baltinglass.

In what house ? It was a carpenter's house.

What was the carpenter's name ? I don't recollect.

You may have been ten or eleven years in Baltinglass, or its vicinity, doing duty there ; and yet you cannot tell the name of the man in whose house you lodged ! You may go down, sir.

(Witness before leaving the table stated that he had been only stationed about a fortnight at Baltinglass.)

HENRY TWISS SWORN AND EXAMINED BY MR. MARTLEY, Q.C.

Do you belong to the constabulary ? I do.

What rank do you hold ? I am a sub-constable.

Where were you stationed in August last ? At Red Cross in the county Wicklow.

How far is that from Baltinglass ? I can't say precisely, but it may be about thirty miles.

Were you at the meeting which was held at Baltinglass on the 6th of August ? Yes ; I went there on duty.

Did you make a report to your superior officer of what you saw at the meeting ? I did.

When did you make that report ?

[The report was here handed to the witness, and identified as being in his own handwriting].

Could you form any opinion of the number of persons who attended that meeting ? I could not form any correct opinion of the numbers ; but I believe that there were more than five thousand persons present there.

Who did you see at the meeting ? I saw Mr. O'Connell there.

Did you see any of the other traversers there ? I saw many other persons, but I did not know them.

By whom was the chair taken ? At one time the chair was taken by Mr. Copeland ; but afterwards I saw another gentleman take the chair.

Who was that gentlemen ? He was some gentleman from Kilcullen-bridge, but I do not know his name. My orders did not extend as far as that.

Were you near the crowd ? Yes.

Was there a platform ? Yes.

Did you get near the platform ? At one time I got within a few yards of it.

Did you hear the people say anything about you ? Yes.

Tell the jury some of the expressions which you heard on that occasion ? I heard one person say " Wait with patience for a few months, the time is nigher than you think." Another said, " Ireland has been trampled on, but it shall be so no longer."

How long did the meeting last ? I can't remember ; it commenced about half-past two, and continued up to half-past six.

Did you ever see Mr. Steele ? I was shown him.

Do you see him in court ? Yes ; there he is (pointing to Mr. Steele), I was shown him ; I believe that is he.

Chief Justice—You say he was there ? I was shown him.

Was the Rev. Mr. Murtagh, the Catholic clergyman from Kilcullen-bridge ? He was called to the chair.

If you made a report of what he said will you refer to it ; I can't, I made no report of what he said.

CROSS-EXAMINED BY MR. M'DONOUGH, Q.C.

Did you take any notes ? No. None at all. What I heard I took down at the time.

Mr. O'Connell was there—was he not ? He was.

And speaking of a repeal of the union ? I believe so. I cannot tell ; but you may think it.

Then you are not able to ascribe any meaning to the expressions he used ? No.

The repeal of the union was the subject under discussion ? I believe so ; for the placards posted up announced it.

You heard the speeches ? Yes ; I heard them speaking of the Repeal ; but I can't ascribe any meaning to them.

Did you see all the people retire ? I can't say I saw them all, they were going in every direction.

There was no breach of the peace committed ? Not that I could see.

You would say nothing but what was true ? I would not.

Then everything went on peaceably ? I am exceedingly sorry you did not take a note. You may go down (laughter).

PATRICK LENIHAN EXAMINED BY MR. TOMB, Q.C.

You are in the police ? I am ; I am a constable.

Were you at Baltinglas ? I was.

Did you see the people going out of the town to meet Mr. O'Connell. I did.

There were great numbers there ? I should say some thousands.

Did you see men go over the bridge on the Dublin road to meet Mr. O'Connell ? I did.

Did you go in that direction yourselves ? No ; I remained in town. I saw him coming in. I was below where the meeting was held at the Carlow side when he came.

Did you see him coming to the place of meeting ? I did. I was not in uniform but in coloured clothes.

Did you get near the platform ? I did ; but after the gentlemen came

on the platform I was obliged, in consequence of the crushing, to move out about thirty yards.

Who also were on the platform? Father Lalor, of Baltinglass; Mr. Steele, the Rev Mr. Murtagh, of Kilcullen, and others.

Did you hear the speeches made? I heard Mr. O'Connell tell the people he was glad to see them all there, and hoped to see them in the same place when they'd come again (laughter).

Did they say anything to that? Yes; they all shouted (a laugh).

After the meeting was over did you see them go away? They went towards Baltinglass, across the bridge, and in the direction of the barrack.

As you were going over the bridge did you hear the people say anything?

Mr. Moore—Does your lordship think that is evidence to affect the traversers. The meeting was held, the people were going away, and to seek after that to give a character to the meeting from expressions used by well-known individuals is decidedly no evidence.

Mr. Tomb replied that it was such expressions which gave a character to, and proved what the intentions of the meeting really were.

Mr. Moore—The only evidence given is what was said by some persons unknown in a field; and they were not certainly calculated to give it any effect whatever.

The Chief Justice—We cannot exclude the evidence; but it is not of much consequence one way or another.

Examination resumed—I was obliged to stop on the bridge the crowds were so great. I then got into a field where I heard one man say, "Repeal is certain." "Yes," said another, "if we do not get it we will fight for it." "Aye," said a third, "we will turn out for it."

Mr. Moore submitted that the traversers could not be affected by what any individual might choose to say after the meeting was dispersed. The court had already ruled that a party of men going to a meeting with banners, was admissible evidence to explain what its meaning and intention was; but it would, he contended, be going to a very dangerous length indeed, and one, in his mind, unknown to the law, to make the traversers accountable for the conversations of unknown individuals going home perhaps, or, at all events, found together by a policeman in a field a long distance from the place of meeting. If that were once admitted by a court of law as legal evidence, there was no man in the community safe from being implicated in the commission of crimes and offences of which he may be totally innocent.

Mr. Hatchell—If such conversation had occurred before the meeting was held, and with the knowledge of the traversers, then an opportunity would have been afforded them of withdrawing themselves; but after it was held tranquilly, and peaceably, and laudably, it would be monstrous to hold that any language, or misconduct, or declaration of others, who were not there, although coming from the same direction, could be held as evidence, or be allowed to affect the character, or property, or perhaps the lives of innocent individuals.

Mr. Tomb—Perhaps I may adopt an expedient which may raise the question properly for argument, by asking the distance from the bridge to the platform, and how long after the meeting had dispersed the conversation took place?

To the Witness—What was the distance from the bridge to the platform? Not half a mile.

How long after the meeting did you hear the conversation? Not an hour after.

Mr. Moore - Really, my lords, this is too bad.

Mr. Tomb---Was there a separation of the crowd?

Mr. Moore objected to this question being answered.

Mr. Tomb submitted the question was a proper and legal one. He wished to show the effect produced by the meeting held, and the speeches made by the different speakers, which he contended he had a perfectly legal right to do.

Mr. Justice Crampton---Was it in the house you heard this? No, it was on the side of the bridge.

Oh! I thought you went into a house? No, my lord.

Mr. Tomb---It has been ruled that what has been done by persons going to a meeting is evidence to show the character and nature of that meeting. This was so ruled in the Manchester riots, and hence the expressions of the persons who had attended the meeting must show both the nature of that meeting, and what was their conception of the character of the meeting.

Mr. Justice Perrin---In the case that you allude to the expressions were proved of parties who compelled others to go to a meeting and to form part of the meeting.

Mr. Moore, Q.C.,—Conceived that in the absence of all authority, they must look to what was common sense and justice. The court was asked to take as evidence, against persons who had taken part in meeting, that which had occurred an hour after the meeting—to seek to make individuals responsible for what one now might say to another, and when no one could tell but those persons had been drinking, when they might have put themselves in a situation of being incapable of knowing what they were saying or doing; and then, for whatever act they might commit, or whatever improper expression they might use, to make those who attended the meeting an hour before, responsible for those acts and those expressions, would be inconsistent with common sense and justice.

The Attorney-General deemed that it would not be inconsistent with common sense and justice to receive such evidence—that so far from it, it would be inconsistent with common sense and justice not to hold the parties responsible for what was said and done after a meeting. In the case of Redford and Burley the expressions used by persons going to a meeting were held to be evidence. This would be found in page 55 of the case already referred to. These were admitted on the part of the defendants, who justified the dispersion of the meeting. In that case counsel had been proceeding to ask as to persons having been seen on the night of the 14th, and the expressions they used, for the purpose of showing that they were going to be drilled. It was contended on the part of the plaintiff, that unless it was shown that the plaintiff was one of those parties, the evidence was not admissible. Mr. Justice Holroyde ruled, and it was afterwards confirmed by the full court. When the parties moved for a new trial, it was declared by Lord Tenterden that the evidence was clearly admissible as to whether there had been an unlawful conspiracy to excite discontent, and to show whether the meeting that had been dispersed was unlawful—for this

purpose, evidence was properly admitted as to transactions that had occurred in the neighbourhood of Manchester. This was one part of the case, and another was, the admissibility of the evidence of witnesses seeing parties going to a meeting. In the opinion of Judge Holroyd this was evidence, and it was confirmed by Judge Tenterden, who observed, with respect to the declarations of parties going to a meeting, that it was undoubtedly evidence. Now, if it were of importance to show what had been said going to a meeting, or preparing to go to a meeting, it was equally important to show what had been said leaving the meeting to show the character of that meeting. They had there the remarkable expression used, whether if Mr. O'Connell were to come there again, the people would be there to meet him—and the question for the jury was, how was that language understood. They had the language of the persons who had attended that meeting that they were ready to turn out to a man and to fight for Repeal if necessary. Common sense told them that this was the manner in which the language that had been used at the meeting was so understood by the persons who had attended it. It was part of the *res gesta*—the meeting was not over, because the people were dispersing. He referred to Phillips on Evidence, and to a case supplied to him by his learned friend, Sergeant Warren, in the 15th volume of the State Trials, page 553, where there was given in evidence the declarations of the mob, who pulled down meeting-houses, after having accompanied Doctor Sacheverell from the place where he had been preaching. Here the persons were going home, and nothing would be more important than to show what was their understanding of what had been said to them by the speakers.

Mr. Justice Crampton wished, he said, to look at the case of Redford and Burley.

The Attorney General continued by saying, that let it be supposed that some of the parties had pulled down Mr. Saunders's house—if they had committed that act of violence as they were going from the meeting, he insisted upon it that that would be considered against every one who took part in the meeting. It showed to the court and the jury the impressions which were made on the people by the speakers that addressed them at the meeting. The learned gentleman then referred to page 552 of the State Trials, in Dr. Sacheverell's case, in which such evidence was allowed to be given by a witness named Daniel Davaron. On these grounds he submitted that the evidence should be perfectly admissible.

Mr. Whiteside, Q. C., in reply, said he did not contend that what was said or done by persons at the meeting would not be evidence against the traversers; but he contended that they could not be held responsible for language uttered by persons over whom they had no control, and who were at a distance from them when the alleged words were used. In conclusion he said that there was no case decided that after a meeting was broken up a traverser was accountable for observations uttered by persons—

Justice Perrin said that it would be a different thing if the shoutings "We will have Repeal, or die for it," were the act of the whole body. But the only thing proved in the case was a private conversation between two individuals.

The Chief Justice called upon the learned counsel (Tomb) to examine



the witness as to the nature of the party from whom the expressions proceeded.

The witness was called, and deposed that the crowd were less than half a mile from the place of meeting. He could not swear whether they were part of the people who had been at the meeting or not.

Mr. Tomb said that he could not press the examination of the witness in reference to the expressions used.

Mr. Moore said of course the jury would erase from their notes that part of the evidence which referred to the expressions.

The Chief Justice, addressing the jury, said that they should understand that the evidence referred to by the learned counsel should be erased from their notes.

THE WITNESS WAS THEN CROSS-EXAMINED BY MR. MOORE, Q.C.

Was stationed at Holywood, fourteen miles from Baltinglass; went there the day before the meeting; Captain Drought was the stipendiary magistrate there; it was notorious that a meeting for a repeal of the union would be held there; I had heard of it about three weeks before that period.

Am I to understand it was perfectly notorious in the county three weeks before the meeting? Yes.

And that the object of the meeting was a repeal of the union? Yes.

As long as you were there was not everything perfectly peaceable and quiet? Yes; I think it was, except the shouting of the people.

There was no act of violence committed, or anything like a breach of the peace? No; there was not.

Mr. Tomb—You have said that Captain Drought is a stipendiary magistrate? Yes.

What is his state of health? He was very ill when I left Baltinglass.

The court here adjourned for a quarter of an hour.

MANUS HUGHES EXAMINED BY MR. HOLMES.

I am an acting constable of police, stationed twenty-one miles from Baltinglass. Great numbers of people were there. I think I know, Mr. O'Connell. He was pointed out to me at the meeting. I never saw him before. I went there the day before the meeting. I appeared in plain clothes. The people were coming in all the morning from different parts of the country. I think I saw Mr. O'Connell about two o'clock. He came into Baltinglass by the turnpike road. There were a great many people with him. I did not see Mr. O'Connell till he got quite near the platform. I heard persons say something about Mr. Saunders. I took no note of what I heard said that day. I made the note next morning. I can swear it is a correct note of what I heard said. I heard persons in the crowd say something respecting Saunders. I heard three or four who got together say that Saunders's house ought to be attacked, and the reason they assigned was, "it was once the seat of blood." This was before Mr. O'Connell came into the town. I did not hear them say anything more, except that a man who came up said he called the coachman to pull up the carriage until Mr. Saunders could be cheered. The man came up in the direction that Mr. O'Connell came up. I heard part of

a speech made by Mr. O'Connell. I heard it sufficiently to swear to a particular expression. I have no note of what he said, but I heard him say he would do away with the poor-law and taxes ; and that he would have the poor supported out of the consolidated fund. I heard the crowd also say that they would and should have Repeal. That was before and after the crowd dispersed. After the meeting I heard the expressions. The platform was in a field. There were numbers about the town at the time. I heard the expressions immediately after leaving the meeting. The persons who used the expressions were less than a quarter of a mile from the place of meeting. The evening before the meeting, on my way to town, I heard expressions.

State anything you heard the people saying before the meeting dispersed. I heard persons saying at the meeting what I have stated with regard to Mr. Saunders. I do not recollect that anything else was said upon the ground, but when they were coming, I heard a man say, " We will have the Repeal or we will have a fight." That occurred the night before, and was said by a man who told me that he was going to the meeting.

#### CROSS-EXAMINED BY MR. O'HAGAN.

I came from Tara the night before. I cannot tell the time that the people began to come in. I had no work to do in my capacity of a policeman. There was no breach of the peace that I saw, or even the appearance of it. I heard one person say, when Mr. O'Connell called to have cheers for Mr. Saunders, that he ought to be attacked. I was then upon the platform. The crowd was very thick. There was not any other policeman there with me. I had an inspector there that day, but he was not at the meeting. There was a superior in rank to me there, Constable Godfred, and one other constable. I am not certain where Mr. Hawkshaw was there that day. I was speaking to him one part of it. When Mr. O'Connell said there should be a cheer for Mr. Saunders, the people said he should be attacked. After the meeting was over, some of the people went away.

To Mr. Holmes—I saw Mr. Hawkshaw in the town, and not at the meeting. I did not see him at it at all.

#### JOHN TAYTOR EXAMINED BY THE ATTORNEY GENERAL.

I am a sub-constable. I was at the meeting on the 6th of August, I was stationed there. I went there from my station on Friday and arrived on Saturday. I saw the meeting collecting. There were several bands. The people came from different parts. There was a great number at the meeting ; you need not be particular as to a thousand or two ? There were about 2,000. I was sometimes within nine or ten yards of the platform. I saw Mr. O'Connell then. I heard expressions from the crowd about the platform. I took no note of what occurred at the time, or afterwards ; but I have a distinct recollection of hearing Mr. O'Connell say " that he would get a Repeal if the people would stand to him for he was able to get it ;" he also said " they would have Repeal ; they had Lord Wicklow as a member of parliament, and what did he do for them ?" He mentioned that some of the landlords had tried to prevent their

tenants coming to the meeting, but they had come; and he asked "if he wanted them again would they not come." They said they would, and all put up their hands. When he said he would get Repeal, the people replied that he would, and that they would willingly fight for it. I heard nothing else during the meeting from the crowd. I heard a Mr. Reilly speak. He made mention of "the villanous government which had the bones of Irishmen perishing in Cabul and in other places," and "the devil's cure to them for going." He said also "that he hoped the people would never put themselves in the same way again;" and they replied that they would not.

## CROSS EXAMINED BY MR. M'CARTHY.

I am a policeman; I am a sub-constable of the lowest grade. I had no superior there that day that I could see. I saw Captain Conroy, the county inspector. Never reported speeches before. I did not take notes. I reported all from memory. I had occasion to refresh my memory at one time on the 6th of August. I kept it all in my memory. I swear that the words of Mr. O'Connell used were, "We will have a repeal if you stand to me."

Who said "The devil's cure to those who did not fight for Repeal?" (laughter).

Judge Crampton—Not those who did not fight for repeal, but those who went to Cabul (great laughter).

Witness—Mr. Reilly said, "Devil's cure to them, why did they go there."

Was there any treason in that---would you go there? I would if I was ordered; I saw Mr. Hawkshaw in the barracks; but I did not see Mr. Daniel.

John M'Cann was the next witness called up, but Mr. Rigby, one of the jurors said, before he was examined, the jury wished to have the last witness again on the table.

Taylor was recalled, and Mr. Rigby asked him to repeat what Mr. Reilly said in his speech.

## JOHN M'CANN EXAMINED BY MR. SMYLY.

I am a constable, and was stationed in August last in Drummartin station, in the county of Monaghan. I know a place called Clontibret, and was there on the 15th of August last. There was a meeting held there on that day. It was a large meeting. I did not see the entire of the persons present, as I made it a point to attend to the speakers. I can tell some parts of a few of the speeches. I took a few notes. I took them on that day (day of meeting.) I can speak from memory of the Rev. Mr. Tierney's speech. He spoke very briefly. A gentleman followed him who was called Councillor Meehan. Next Mr. O'Neill Daunt. I forgot to mention that the chairman was speaking when I went on the platform. Captain Seymour was the chairman. A Mr. Jackson spoke also at the meeting, and a Mr. Conway, the editor of the *Newry Examiner*. I took short notes of what the Rev. Mr. Tierney said. He said the union was carried by every species of fraud and corruption. In consequence of the crushing I got I could not write any more of what he said. I recollect

seeing the Rev. Mr. Tierney some time before the meeting took place. I saw him convenient to his own house. He lives in the townlands of Slisnaganchin. I had a conversation with him about the meeting. I was instructed to inquire of Mr. Tierney, in consequence of the many reports, when the meeting would place. I went to ask him if he would have the kindness to let me know when the meeting would take place. As nearly as I can recollect when I went to him the conversation was this. He said the day was not yet fixed; that it depended upon the convenience of some barristers, to whom he had written to attend. He adverted to the union, and he repeated that it had been fraudulently carried. He said it was not binding; he represented it to be a nullity and a concoction; that it was not binding upon conscience. He said that the feeling towards repeal was becoming general; that it had extended itself to the army; that the army were favourable to repeal, and partook of the enthusiasm of the people; and that they could not be so easily led to spill the blood of their fellow-men by the bayonet, for seeking redress of their grievances peaceably. I remember him speaking as to what the army done in Spain, That was on the 16th of June.

A juror—Was this all a private conversation with the Rev. Mr. Tierney. I don't know what you may term it. I was there on duty.

To Mr. Justice Crampton—There were no persons present at the conversation, but a man came up just as I retired.

Examination continued—I had known the Rev. Mr. Tierney before. I was in uniform at the time. I live contiguous to his place.

Mr. Moore, Q.C., here rose, and addressing the court, asked if they thought this was evidence to go to the jury?

Mr. Justice Crampton—Surely it is evidence against the Rev. Mr. Tierney. It was on the very subject of the meeting that was to take place.

Mr. Moore—Anything he said or did at the meeting is evidence I know, my lord, but anything he might have said a year ago—

Mr. Justice Crampton—That is another matter.

Mr. Moore, Q.C.—We came here prepared upon certain overt acts which are stated in the indictment. There is one act stated at the meeting on the 15th of August. We are not in any manner apprised of a conversation alleged to have taken place two months before the meeting. If the crown is at liberty to give evidence of what took place before a certain meeting was held, it does seem hard that we should be called upon to be prepared to repel anything Mr. Tierney may have said at a private conversation. I make an objection to it.

The Chief Justice—But, Mr Moore, it is the declaration of the party himself respecting the preparation for a meeting which had been spoken of, and that it was known before it was to take place. The witness desired to be informed at what time it would take place. He went to Mr. Tierney himself for the purpose of inquiring, and Mr. Tierney told him he could not tell exactly, but that it would shortly, and that he had written to certain barristers who were to attend. Surely the conversation had a direct reference to the meeting at Clontibret, which is made one of the overt acts in the indictment against Mr. Tierney.

Examination continued—The conversation lasted for about a quarter of

an hour. I recollect more of the conversation. I recollect his talking about the association. He said if it should not ultimately succeed in obtaining its objects, the country must get more than the bayonet, or words to that effect.

Mr. Justice Perrin directed the witness to repeat the last answer, and the witness did so.

Examination continued---It would be difficult to calculate the number at the meeting, and I did not see all the persons who attended it.

CROSS-EXAMINED BY MR. MOORE.

I am stationed in the parish of Clontibret. I have been quartered there since 1841. Mr. Tierney is the Roman Catholic clergyman of the parish. I cannot say how long he has been so. There was not any person with me when I had the conversation with Mr. Tierney on the 16th June. There were men working in a field near us, but I do not think they could hear what we said. I am tolerably certain they could not have heard what passed. They were more than ten yards distant from us. I can write. I was at the meeting in question, and I was dressed in my policeman's clothes. I was on the platform, and I took some notes of what was said. I have them with me. I made a short note in my diary of my conversation with Mr. Tierney on the 16th of June. I have a copy of it with me. The diary is at the station in the care of the senior constable. The note is to this effect:---"Friday, 16th of June, saw Priest Tierney on the subject of the Clontibret Repeal meeting, who said that the period was not fixed as yet, and that it depended on the convenience of barristers who were to attend, and who would give the authorities sufficient notice, &c. &c. (laughter.) That is the whole of what I took down on the subject of the meeting. There is not a word of Mr. Tierney's having spoken about Repeal and Spain in my diary; I have no note of the conversation with regard to Spain and the army. When I understood I was to be examined by Captain Johnston I took a sort of note of it. That was some time in October. I am not a Roman Catholic. I knew Mr. Tierney before the 16th of June. He knew me to be a policeman. Had on my uniform on the 16th.

Has Mr. Tierney ever assisted you in keeping peace in the parish? If Mr. Tierney wishes me to speak of any assistance he has given me, or if the court should deem it expedient that I should do so, I will tell you; otherwise I would not wish to reveal what I consider to be a secret.

The Chief Justice---The court has no objection to your making any statement you please, in reference to what you have been asked.

Witness---He has assisted me, inasmuch as he has sent for me, and given me information in reference to the concealing of a birth (laughter); and-----

Mr. Moore---We don't want to hear anything about that; go on and say in what other way he has assisted you? He also gave me information about another girl deserting her child (renewed laughter). There were magistrates at the meeting at Clontibret. Saw Mr. Plunket and Mr. Gould there, but they were not on the platform. There were military and police there, but I don't know who sent them. Don't recollect having heard that they were sent to the meeting at the request or suggestion of Mr. Tierney, but I will not swear that I did not hear it. The meeting

was a peaceable one. Saw no violence of any sort at the meeting, but could not say how long it lasted. Took the note then produced while the meeting was being held. It has nothing in it with reference to the resolutions moved, or to any petition read. Captain Seymour was in the chair. Captain Wilcocks, Mr. Plunkett, Mr. Gould, and Mr. Hamilton, the magistrates, were there also.

WILLIAM THOMPSON, A HEAD-CONSTABLE OF POLICE, WAS NEXT  
EXAMINED BY MR. BAKER.

Was stationed at Clontibret last August, and was present at the repeal meeting. Was on duty on the platform. Heard the several speakers distinctly. Was on the platform when Captain Seymour, the chairman, spoke and heard him. Took a note of what he said, but could not undertake to say what the precise words were. Heard him ask "Whether they had all got repeal cards, and if not, they should lose no time in getting them, for he had reason to know that other associations had signs and pass words, by which they might know each other, and why should not they" (meaning the repealers). The chairman also said "I know no other better way of your knowing each other than your getting repeal cards." The chairman afterwards desired the meeting to go home quietly and insult no person. Also heard Mr. O'Neil Daunt speak, and took a note of what he said. He commenced by saying, "I bless God belong to this land and to this people. The people should have this land if they are worthy. And who dare say they are not." Heard Mr. Daunt also say, "The repeal movement now or never. Now and for ever. If Peel and Wellington came and said, 'We will give you everything you want only give up repeal,' we would tell them we would not—never." Also heard him say in another part of his speech, "Before God we swear they shall not bully us longer. If we had an Irish parliament once we would have the power to keep it; but we must now stand to our colours, and persevere in the course O'Connell pointed out to us; then in place of six struggles or battles for repeal, one will do for all." He then said that Ireland should be free, for she deserved her liberty, and that the Clontibret boys would fight the repeal battle to the last. There were several other speeches delivered. The Rev. Mr. Tierney, one of the traversers, was present.

CROSS-EXAMINED BY MR. HENN.

I was on the platform when I took part of my notes. I was on the ground when I took what Mr. O'Neil Daunt said, I was in uniform openly taking notes. I did not take down every thing at the time it was said. I did not just now read from my notes "six struggles or battles" as part of what Mr. Daunt said; "struggles" was the word he used. Nothing occurred requiring the interference of the police. There was no disposition to riot. There was some confusion in getting upon the platform. I spoke to one person when I was taking notes, and asked him not to press on me; I told him he would see the proceedings in the newspapers. "That may be," said he, "but we won't see what you are taking." (laughter).

The High Sheriff here handed a letter to the court. The judges read it, and

The Chief Justice desired the tipstaff to ask whether a person named Samuel Maunsell, who described himself as residing in No. 42, Leeson-street, was in the court.

The crier called "Samuel Maunsell" out. No such person answered.

The Chief Justice then said---I am very sorry that the progress of the trial and the public business should be interrupted by the paper which I now hold in my hand, having been presented to the court by the high sheriff. Unless this gentleman wishes to explain what the letter contains, which, for the present, I do not choose to go into the detail of, I must apprise him, or anybody that happens to be his friend, and in hearing of me, that it is a most improper attempt upon behalf of the individual to interfere with the high sheriff of the county in the execution and discharge of his duties. This gentleman must explain this, and attend at the sitting of the court to-morrow morning. Let him be called again now.

Crier---Samuel Maunsell, 42, Leeson-street, come and appear.

Justice Crampton---I must add that the sheriff most properly, in the discharge of his duty, handed the letter up to the court. He would have been wrong if he had not immediately put the court in possession of the letter.

Justice Perrin---The Chief Justice has directed any friend of this gentleman to apprise him of the necessity for his attending the court to-morrow morning. I add that he should take care how he conducts himself in the meantime.

#### JAMES WALKER EXAMINED BY MR. NAPIER.

I am a sub-inspector in the constabulary. I was stationed in the neighbourhood of Tara. I remember the day of the meeting there. I arrived there on the 15th of August. Attended there upon that day. There were two officers with me. Was under the command of Captain Duff, the stipendiary magistrate of the district, who also attended at Tara. Arrived on the ground before the meeting was held. Saw a party of people coming there. The people were approaching in all directions to Tara. Probably there were 100,000 people there. Observed musical bands and banners. There were about fifty bands of music. The bands had a peculiar dress. Saw a harp but did not hear it playing. I know Mr. O'Connell. Did not see any of the traversers around me now. Knew Mr. Steele before, but did not see him at Tara. Was at Tara an hour before Mr. O'Connell arrived. The people were coming to the meeting before that. There was a platform erected on the ground, nearly fifty or sixty perches from the church. Mr. Despard was on the ground.

#### CROSS EXAMINED BY MR CLOSE.

Was some hours walking through the crowd. The entire demeanour of the crowd was peaceable. There was not the slightest tendency to a breach of the peace. There were females at the meeting. There were a good number of ladies. Had occasion to observe temperance bands throughout the country. They were there. These bands were for a considerable time before the meeting in the habit of using fancy dresses.

GEORGE DESPARD, ESQ., EXAMINED BY SERGEANT WARREN.

I am a magistrate. Recollect the 15th of August. Was on that morning in the town of Trim. Saw assemblages of people there. They marched from thence to Tara (six Irish miles). They forned upon the green of Trim, and marched through the town. They marched in ranks four deep. There were bands and carriages. There were some people on horseback. There were persons who assumed command over the others; persons who had wands, and I understood them to be repeal wardens. Heard persons saying to others "Keep your step, man; keep your rank." Went to Tara.

Did all the persons you saw upon Tara come from Trim? No, nor one-twentieth part of them. I know there were bands there from Kildare, Wexford, Dublin, and Westmeath; and a man told me he came from Nenagh. I was some time on the ground before Mr. O'Connell arrived. There were various bands marching from Dublin and other places with flags and banners flying. Can you calculate the number of persons who were present at the meeting of Tara? It would be almost impossible to form an accurate estimate of the number. I had the assistance of an old officer in making the calculation, and my opinion is that there were one hundred thousand persons at least at the meeting. Calculated that there were about seven thousand horsemen. Counted nineteen bands. Did not see the people upon the hill of Tara commanded as at Trim. I think the procession came up about two o'clock, and when Mr. O'Connell got on the platform the crowd gathered round, and in about an hour and a half there was a sudden movement of the meeting in bodies of about twenty thousand, as if there was some concocted plan. Heard one observation made by the crowd. I was then standing on the ditch watching the procession. A well-dressed man turned round and said to me, loud enough to be heard by every one—"That it was not gentlemen O'Connell wanted there." I looked at him for a moment and said—"What does he want?" When he replied—"He wants men of bone and sinew like me, who would be able to the work when it comes." Mr. Walker, the sub-inspector, was standing near at the time. I then said—"I suppose he wants men like those frieze-coated men up there?" He replied—"Just so." I continued to ask where he came from, and he told me "that he came from the barony of Shilmalier, in the county of Wexford, with 2,000 who were joined in Kildare by 3,000 more." Mr. O'Connell's procession then passed by, and he turned round and said, "You did not take off your hat to O'Connell." I answered, "I did not;" upon which he said—"Then you do not belong to our party." I replied—"Certainly not; I do not belong to any party here." The man answered—"I know by the curl of your lip that you do not" (great laughter). I continued to say to him, "That I was glad his eyes told him so much truth; that I was only amusing myself, and did not belong to any party." He said—"Oh, no matter, we will let you come on the field for all that." A person then came up and said, "If you do not know that gentleman, you had better let him alone." I heard them saying, long life to the foreigners, for some of them mistook Major Westenra for a foreigner. Some of them shouted, "Long life to Mr. Leather Roland," but I afterwards found out that it was Mr. Ledru Rollin they meant (great laughter).



CROSS-EXAMINED BY MR. HATCHELL.

They were giving you a *Roland* for your *Oliver*, I suppose. Do you reside at Trim? I do not, but I slept there the night before the meeting I was desired to attend at Tara, and at every public meeting of the kind. I have been twenty years stationed in that district, in the county Meath. I attend fairs, petty sessions, quartar sessions, assizes, &c. My person is very well known to men, women, and children (laughter). I sat on the wall, and the people passed me. They did not give me a cheer.

Was it not very disrespectful for none of the troops to salute you—their general? I am afraid that they did not take me for their general. I resided in a country place near Rathlyons. The nearest band is the Trim temperance band. The men were all dressed in a new uniform upon that occasion. I know they were, for I saw them on Patrick's day before. I knew this uniform was made up for the occasion. I saw it in the tailor's shop. I happened to go in on business. I never saw them in a similar uniform. They were fancy dresses. Those used at the meeting were more like military uniform—very like the band of the 54th. I heard one man say, "keep the step," and another, "keep the ranks." They were not keeping the step. I don't think they knew how to keep the step. Those who were put in command did not know anything about commanding. I first went to Dunsany, and then to the hill of Tara. I walked all over the hill. Heard there were two bands there more than I reckoned. Heard there were twenty-one bands there. There were none of the constabulary there. Mr. Walker was there in coloured clothes. Major Westenra came from Trin with me from curiosity. Did not see any of the family of the Hon. and Rev. Mr. Taylor there. There were very many respectable looking carriages there. There were several ladies there. Major Westenra was with me all the time in coloured clothes. Don't know whether Major Westenra is dead or alive now. He was close to me when the man made the observations to him, when on the ditch, and he said, "We had better get down or they will make us take off our hats."

Now, I will ask you a very serious question, and you may answer me or not, as you like—are you Repealer? I will answer you as seriously—I am not a Repealer. Do not know the name of the man who addressed me.

Were you ever in Shilmalier, in the county of Wexford? Never.

Did you know how many that place could hold? I never inquired.

Did you look at the population returns to see if Shilmalier could supply 2,000 men? Had not that curiosity.

How far is that place from Tara? I should say about 40 miles.

I beg your pardon, it is more than 60 miles from Dublin, and then add to it the distance from Dublin to Tara, which is at the other side.

Did the man you were speaking to come through Dublin to Tara? He said they came through Kildare, and were joined in Kildare by three thousand men.

How many men came from the county of Westmeath? The man did not tell me.

Must not the resident magistrates between Wexford and Tara have slept upon their posts to have taken no notice of the march of a body of two thousand men? I do not mean to say any such thing; and a county Kildare gentleman told me that he heard large bodies of men passing his house for two nights before the meeting.

You say there were two thousand men from Wexford? I had only the man's word for this to whom I had been speaking.

You believed him? Yes, at the time.

Do you believe him now? I think there was a large body of men marched from Wexford, although the number might be more or less than was stated.

Did Major Westenra, who was with you, turn pale when he heard what the man said to you? Why should he.

Was there not a platform at the meeting appropriated for ladies alone? There were two platforms on the ground.

Was not one for the ladies? Cannot exactly say.

You saw no appearance of disturbance at the meeting? Not the least.

You made your report to government of what you saw and heard I did.

Did Mr. Walker, the sub-inspector of police, hear what was said by the man who spoke to you when you were at the ditch? I am sure he did.

Did you learn that Chartists from England came to disturb the meeting at Tara? No, but I read of some correspondence on the subject in the newspapers.

Did you hear Mr. O'Connell speak? I heard none of the speeches.

Were you informed that the speakers at the meeting denounced the Chartists? Yes; and I also heard that I myself was denounced.

Did you see any such denunciation in any newspaper? Yes.

Would you know the man whose conversation with you you have detailed? If he were in the same dress and in a similar position, I might.

Did you desire the sub-inspector to mark him? No; having no police there, I did not wish to interfere.

How far did this conversation take place from the platform? About 100 yards, and the words were said just as Mr. O'Connell had passed by, going into the field where the platform had been erected.

Do you know that several of the counties of Ireland wear different frieze coats? Yes, and I saw men with the frieze of the respective counties of Cavan, Meath, Louth, Westmeath, and Kildare.

Did you know any of the persons who were about you when you had the interview with this unknown man? I did not.

#### JOHN ROBINSON EXAMINED BY MR. BENNETT, Q. C.

Do you belong to the constabulary? I do.

What rank do you hold? That of constable.

Were you at a Repeal meeting at a place called Clifden? I was.

When was it held? On Sunday, the 17th of September.

You saw the meeting after it had assembled? I did.

How many were at it? At least 4,000 or 5,000.

Did you see any of the persons passing the barracks going to the meeting? Yes.

How far are the barracks from the place of meeting? About 100 yards.

Who did you see pass? The Rev. Mr. Macnamara, the Catholic curate, at the head of a body of about 100 horsemen, who marched four or five abreast.

Did you take notice of anything in their hats ? Yes, Repeal cards.

How did you know they were Repeal cards ? Saw them plainly being quite convenient to the men.

Did you hear that body called by any name ? Heard them called "The Ballinakill Repeal Cavalry."

Did you see any other body pass by ? Saw Mr. Murray, of Galway, heading another body ; he wore a green frock of calico, with a large badge, and a much larger Repeal card than the others ; he had also a green ribbon round his hat.

How many men were following him ? About 100 mounted men, and 300 or 400 walking.

Had they cards in their hats ? Yes ; Repeal cards. Other bodies passed by ; and some groaned as they passed the barracks, and shouted for Repeal.

In what parish does Mr. M'Namara live ? In Ballinakill.

Did you see Mr. O'Connell that day ? Yes, and Mr. Steele. Mr. O'Connell waved his hat as he was going down to the place where the meeting was held.

CROSS-EXAMINED BY MR. FITZGIBBON, Q.C.

Is not Mr. Murray, of whom you have spoken, a very respectable man ? Is he not considered a wealthy man ? He is.

Were not the horsemen Conemara men ? Mostly so.

Were there not two men on many of the horses ? Yes ; in some instances.

And also women riding behind the men ? Did not see a great many.

Had many of the cavalry saddles ? Some had not saddles.

Were there "gorsoons" at the meeting ? Yes.

And barefooted men ? There were.

Were not the majority barefooted ? No.

Did you think the man who called out "This is the Ballinakill Cavalry" was serious ? I certainly did.

Had the men carbines ? I saw none.

Had all the men who followed Mr. Macnamara saddles ? To the best of my opinion they all had leather saddles.

Mr. Bennett—Where did you see those who had no saddles ? At various parts of the road as I was coming to my station.

The examination of this witness being closed, the Court, shortly after five o'clock, adjourned.

---

EIGHTH DAY.

The Lord Chief Justice, Mr. Justice Crampton, and Mr. Justice Perrin, entered the court at ten minutes past ten o'clock. Mr. Justice Burton is still unable to attend in court. On their lordships taking their seats.

The Deputy Clerk of the Crown directed the Crier to call "Samuel Maunsell, 42, Leeson-street," and have him also called in "The Hall."

The Crier accordingly called Mr. Maunsell, who did not answer to his name.

Mr. Henn—I am instructed, my lord, on the part of Mr. Maunsell, to state that he was not apprised till a late hour last night of your lordships' order that he should attend the court this morning. He expressed his intention to me of attending the sitting of the court. He has also authorised me to state that he wrote the letter under excited feelings, and is sensible of the impropriety of which he has been guilty. He trusts your lordships' will permit him to make an affidavit explanatory of the circumstances; but perhaps your lordships' may be satisfied with his apology, and this affidavit may be rendered unnecessary? I mentioned to Mr. Maunsell that I thought it would be better for him to attend the court, to see whether he should put in the affidavit or not. He said he would be here, and I am surprised he is not.

Judge Crampton—It is past ten o'clock, and he may be here soon.

Chief Justice (to Mr. Henn)—I am very glad he has placed himself under your direction, so as to have the benefit of your advice. He was not, I think, aware when he wrote the letter of the predicament in which he placed himself. He wrote a very indiscreet letter to the High Sheriff in the execution of his duty, which was very wrong; and he at the same time committed a gross contempt of court.

Mr. Henn—I do not excuse or vindicate his conduct, my lord, in that respect; but he has expressed regret for writing the letter, which he did under feelings of excitement. It may be as well to say that the letter has no connexion with the case at either side.

Chief Justice—Oh! that has nothing at all to do with it.

The Deputy Clerk of the Crown then called over the names of the traversers and jury.

The first witness called was

#### JAMES HEALY EXAMINED BY THE ATTORNEY GENERAL.

I am a sub-constable in the constabulary. Was at the meeting at Mullaghmast, which took place on the 1st of October. Went to the meeting early that day. I am stationed at Cork, and went from Cork there. Thinks there were 250,000 at that meeting. Was on the central part of the field, and I was along the road when the procession was coming up. A crowd came up in a very boisterous manner, shouting, screeching, and driving all before them. Some of the bands and people arrived, I think, from Carlow and Kilkenny at an earlier hour than Mr. O'Connell. The people came from all directions. The principal part came through "the long avenue." Saw a number of bands. Some were dressed in uniform. Saw several documents circulated amongst the people. Saw the document now handed to me. This document was purchased by another person. Bought a similar one myself. The price, I believe, is only a halfpenny, but paid a penny for it. Should think several thousands of these were purchased by the crowd. Tore up the one I bought myself. A sub-inspector of police purchased the other. His name is John Donohau. The several thousand documents of which I spoke were the same as that which I bought. The people were disposing of the documents from an early hour in the morning until nightfall. Saw Mr. O'Connell and Mr.

Steele at the meeting. They arrived, I think, between two and three o'clock. Saw a great many persons with labels upon their hats, bearing the inscription---"O'Connell's police." They had pieces of timber in their hands, five or six feet long. Saw flags and banners at the meeting. There was one with the words---"No Saxon threats," "No Irish slaves," "No compromise but Repeal." (The witness pronounced the word Saxon as it were Saxon). These inscriptions were upon a flag of the Castle-comer colliers. Upon another flag were the words---"Border men greet O'Connell, Cead mille failthe." Upon others were the word "Repeal," and "We tread the land that bore us." Near the platform was a banner with the words---"The Queen, O'Connell, and Repeal." On another was the inscription "Ireland dragged at the tail of another nation" (laughter). Observed one attached to a private carriage with the words "Repeal and no Separation." On another near the pavilion, were the words "Fixity of Tenure." (On another "Mullaghmast and its martyrs—a *vice* (voice) from the grave." On another were a dog, with a harp, and something which I cannot describe before it. On another I saw the words---"No Saxon butchery shall give blood *gout* for a repast—the dog is roused, and treachery expelled from Mullaghmast." (Witness pronounced the word *gout* as if it were "gout," a disease, which caused much laughter). Thinks the words "God save the Queen," or "The Queen, God bless her," were underneath. The platform was occupied about two hours, but the meeting did not then separate. Heard no observations amongst the people except shouting for Repeal and old Ireland, and words to that effect.

## CROSS-EXAMINED BY MR. M'DONOUGH.

Heard no expressions amongst the crowd except those which I have mentioned. Went amongst the crowd very much that day in the discharge of my duty, and "minutely" examined what was going on; listened attentively to everything.

You mingled with the groups of people? Yes.

And listened to what they were saying? Yes, to anything I could catch.

And all you did catch was "Repeal and old Ireland," although you were there during the meeting, and from eight o'clock till the next morning? I was there from the evening before the meeting to eleven o'clock at night, after the meeting.

I presume you were sent from Cork to the meeting because you were a stranger? I don't know; it may have been the reason.

Was it not a very peaceable assemblage? Yes, so far as I have seen there was no riot or breach of the peace from morning till night---all was quiet in that respect.

And you answer me in the affirmative that there was no riot throughout the day? There was nothing except shouting for repeal.

When you told the Attorney General that parties remained there that night, you meant, I presume at the banquet---they were enjoying themselves in the tents, I presume? Yes.

In peace and quiet? As far as I saw.

Were not the bands, which arrived from Carlow and Kilkenny, temperance bands? I think they were.

You have come from the south of Ireland---now, have you seen any of the processions of Father Mathew? Yes, a great many of them.

And temperance bands were at those processions? Yes.

How many bands have you seen at a time in his processions? I have seen more bands than I saw at Mullaghmast.

How many have you seen at a time? I have seen 45 at a time.

When did you see them? One they day of the Cork temperance procession.

How many thousand people were in that procession? I cannot exactly say, I should think about 300,000.

Did the temperance bands wear uniform? Some did.

Had they flags and banners? Some had---very small ones---I cannot call them flags.

I presume there were inscriptions upon them? Oh yes, all connected with the temperance movement, as I believe.

I presume those processions are common in the south of Ireland? Very common.

How long have you been in the constabulary? Twelve years.

Have the people improved in their habits in consequence of the temperance movement? Very much so; I think there is a great improvement in point of drunkenness (laughter).

Were you at the procession at Nenagh? No, I was not.

Describe how the band came from Carlow to Kilkenny; I suppose that they were in great joy? They appeared to be very wild: they drove all before them.

Were you one of the persons who were driven before the people? I got a little crushing.

There was nothing bad in it though? No.

Did they injure anybody? Not that I could learn, except knocking down a gingerbread stand (laughter.) They were selling them for profit; they were not giving them for nothing amongst the people. There were many persons selling gingerbread, grog, coffee, and things of that description. I do not know any of the persons who were selling those things. Did not observe a single one of the ballads given for nothing. In large assemblages I have frequently seen persons hawking about and selling ballads, and I suppose they took advantage of this large assemblage to do so. I saw the persons at the meeting every place where they could make sale of these ballads.

Have you not even seen persons selling such ballads at the assizes, when the judges were sitting in the crown court and in the civil court? I have seen persons going about at the assizes selling ballads.

Now, with respect to those men who had papers in their hats with "O'Connell's Police" on them, didn't you see them preserving peace and good order at the meeting? I saw them exerting themselves, but not in the way police would.

Didn't you see them keep the platform clear and preserve order? I believe that was their intention; heard instructions given to them by a person named Walsh to keep order and quietness about the platform and pavilion; some of them did not comply with that order. The wands I saw were peeled, smoothed and slight. I will say they were pieces of timber. Was at the dinner, but was not there the entire time. One of the mottos was—

"No Saxon butchery shall give blood gout for repast;  
The dog is roused and treachery expelled from Mullaghmast."

[The witness pronounced the words composing this motto as before.]

Some persons at the dinner appeared not to be satisfied. I got nothing, as I did not dine with them. The dinner appeared to be rather short. One of the mottos was—"Ireland dragged at the tail of another nation," or to that purpose.

Mr. M'Donough---A good heavy load she would have.

Mr. O'Connell---And a good strong tail (laughter).

Witness---I saw one of the mottos in front of a gentleman's carriage in the procession; don't remember seeing any of the mottos fixed in the field; did not take down several of the mottos.

Because, I suppose, you thought them perfectly harmless? Just so.

The witness was then permitted to go down.

Mr. Moore, Q.C. submitted that the evidence of the last witness, as regarded the ballads, ought not to be received. The evidence of the last witness, as he understood it, was this---that there were persons selling and distributing ballads in the course of the meeting, and that he himself purchased one, which he lost, but that he got the document he produced from another policeman, who put a mark upon it. He did not know whether the witness went to the length of saying that he saw the other policeman buy that document. It would be evidence he (Mr. Moore,) acknowledged if he saw the other policeman buy it from the person who was vending it, and mark it afterwards---but seeing him mark a document which he did not see him buy at the meeting from the person vending it was not, he apprehended, receivable evidence.

The Attorney General---Mr. Moore must not have heard the entire evidence of the witness.

The Chief Justice---Mr. Moore is not acquainted with the entire of his evidence.

Mr. Moore said perhaps he did not hear the entire of the evidence.

Mr. M'Donough, Q.C., submitted that, upon the evidence given, the document was not receivable in evidence. A very great latitude was to be allowed in cases of conspiracy, when it was fairly to be inferred that an act stated to be done was done for the common benefit of the conspirators. But where it was proved, as in this case, and the gentleman last examined admitted it fairly and candidly, that in this vast assemblage persons hovered about or mingled amongst groups of persons, and distributed ballads, as was the habitual custom of persons in this country to take advantage of such large assemblages to distribute ballads, and when it was in proof that those ballads were not distributed gratuitously, but sold for profit just as any other thing was sold at the meeting, it would be unjust in the highest degree, he submitted, to permit that species of evidence to be received against the traversers. But besides this, there was not the remotest proof given of any connexion between those persons speaking on the platform at the meeting, and of the traversers, the association, or any member of that body, and the persons distributing those ballads. He submitted that this evidence was not receivable. Mr. Browne, the authorized printer of the association, had been examined, and yet the document now sought to be given in evidence was never put

into his hands, It was the name of a totally different person that appeared on that document. He admitted that Mr. O'Connell, or any other of the gentlemen upon trial, would be responsible for any thing done at the meeting for their common purpose or benefit, with their knowledge; but it was not every collateral declaration even of the conspirators that would be evidence. How monstrous would it be, if, at one of Father Mathew's meetings, ballads of this description were brought there by persons, and sold there, Father Mathew should be held responsible for them. If this were allowed, it would be in the power of any ill-designing person to convert a legal assembly into an illegal one. Under all those circumstances, he submitted that the document was not receivable as evidence against the traversers.

The Attorney General said counsel for the other side had called the attention of their lordships to the document given in evidence, which was before the court, and submitted that it was not receivable against the traversers. Now, in the case of *King v. Hardy*, in "The State Trials," It was decided that the court had a right to look at a document offered in evidence, to see the purport and nature of the document, and ascertain its tendency. Let them see how the evidence stood before the court. Their lordships had heard it proved by Mr. Hughes that Mr. O'Connell, at this very meeting at Mullagmast, had said, "At Mullagmast I choose it (meaning the Rath) for an obvious reason. We are upon the precise spot in which English treachery, aye, and false Irish treachery, too, consummated a massacre unequalled in the crimes of the history of the world, until the massacre of the Mamalukes by Mehemet Ali. It was necessary to have Turks to commit crime in order to be equal to the crime of the English; no other people but Turks were wicked enough except the English." In another passage he said, "I thought this a fit and becoming spot to celebrate our unanimity in declaring in the open day our determination not to be misled by any treachery. Oh! my friends, I will keep you clear of all treachery." Then in another passage he said, "It is not by accident that to-night we are on the Rath of Mullagmast; it was deliberate design, and yet it is curious what a spot we are assembled on; I anticipate it, and I now rejoice in it; where my voice is sounding, and you are quiet hearers attentively listening, there was once raised the yell of despair, the groans of approaching death, the agony of inflicted wounds on the perishing and the unarmed; in this very spot fell beneath the sword of the Saxon, who used them securely and delightfully, grinding their victims to death. Here the Saxon triumphed—here he raised a shout of victory over his unarmed prey. Upon this very spot 300 able-bodied men perished, who, confiding in Saxon promises, came to a conference with the Queen's subjects; and in the merriment of the banquet they were slaughtered." This was what was said by Mr. O'Connell at that very meeting, where, as he could not be heard by the 250,000, those ballads were circulated. Their lordships would now understand why at this very meeting there was the motto--- "No more shall Saxon butchery give *gout* to the repast—the dog is aroused and treachery is expelled from Mullagmast." These mottos on the javillion behind the chair were perfectly explained by the evidence, and now what does he propose doing? He proposes reading in evidence



a document proved by the last witness to have been circulated among thousands who could read it; although from their distance from the platform they could not hear what Mr. O'Connell said, they could by it understand "the murders at Mullaghmast," and "the voice from the grave." This document was clearly admissible in evidence. He submitted that this document was important, to show with what view those 250,000 persons were brought together—to show that they were brought together to have this document circulated among them to sow discontent and disaffection among her Majesty's liege subjects—to show what the general character and objects of the meeting were. He trusted therefore that their lordships would let the document go before the jury.

Mr. Monaghan, Q.C., on the part of Mr. John O'Connell, submitted that this document ought not to be received as evidence against his client. The Attorney General had neither cited any authority, nor given one single principle upon which this document was receivable in evidence. When the former documents were brought forward, the crown produced Mr. Browne, the authorized printer of the association, to prove that they were published by order of the association of which the traversers were members, but in the present case this document was not mentioned in the Attorney General's statement, as there was no printer produced to prove to it, although the Attorney General in his statement said he knew the printer of all those documents of a seditious tendency, and he would be produced. It did not appear that this document had been printed or circulated in the presence of or with the knowledge of any of the traversers, the association, or any person connected with that body. This document had not been circulated for the purpose of exciting animosity or hatred as was described, between Catholics and Protestants, for the massacre was described as a massacre of Catholics by Catholics.

The Solicitor General contended that the document was admissible as part of the *res gesta*—as showing the character of the meeting—as showing transactions that took place at it, and, amongst the rest, the circulation of certain matters, which he could not at present describe, but which he was at liberty to assume was matter bearing upon the charge in the indictment, that the traversers had entered into a conspiracy for the purpose of exciting animosity and ill-will amongst different classes of her Majesty's subjects; and that one of the means adopted by them for carrying that object into effect was the assembling together of large numbers of persons, that they might hear and listen to seditious and inflammatory harangues. It was evident that the circulation of this document at a meeting which was held in pursuance of a mandate from one of the principal persons engaged in the conspiracy, must have had the effect of accomplishing the very object which they (the counsel for the crown) alledged that the traversers had in view, namely, the exciting of animosity and ill-will, &c. He maintained that which was circulated at such a meeting (whether gratuitously or for money was in point of law quite immaterial), was part and parcel of what took place at it, and ought to be received in evidence as showing the character of it. He quite differed from Mr. Monaghan that it was necessary for the crown to show that this document had been printed or circulated by any authority emanating

directly from the Repeal Association. If the association thought proper to call a meeting, such as was held at Mullaghmast, he maintained that he was at liberty to show what took place there, and that he could not be prevented from doing so by the association; that with the consequences of that meeting, the association, or the traversers who were members of it, had nothing to do. Besides, if the printer of this document was known to the counsel for the crown, he was also known to the gentlemen on the opposite side, who were at liberty to summon him, to prove by whose authority the document was printed and circulated; but they were not at liberty to stop the crown from giving it in evidence as part of the *res gestæ*. The learned gentleman also contended there was *prine facie* evidence in the document itself, from which the jury had a right to conclude that it was circulated with the knowledge and by the authority of the persons charged with conspiracy, for it bore upon it the professed object for which those persons convened the meeting. It was circulated amongst an immense number of persons, partly consisting of O'Connell's police, and for ought he knew of repeal wardens, but certainly amongst a great number of persons connected with that conspiracy, under whose notice it was impossible not to believe that it had come. Supposing its contents had been got by wrote, and repeated at the meeting, surely no one would venture to say that those contents could not be given in evidence. The only difference was, that in the present case it was circulated more extensively than it could have been if spoken before 250,000 persons, the majority of whom could not have heard it.

The Chief Justice said that the court were of opinion that the document must be admitted in evidence. They would not say anything as to what effect it ought to have as evidence, but merely that it ought to go before the jury as proving part of what they would hereafter have to give judgment upon. Mr. Monahan had stated that he could not deny that it would be admissible if it could be proved that it had been circulated with the consent, or forming part of the object, of those who called the meeting; but see how the case stood upon the evidence already adduced, and then compare it with the existence of the principle which Mr. Monahan admitted. They had evidence before the court of the existence of the Repeal Association, consisting of large numbers of persons assembling in different places at different times, and causing the publication of documents for various purposes consistent with their object. They had evidence that those meetings had been commenced by the authority of the association, of which the several traversers were proved to be members—that in furtherance of that common practice it was determined that a great monster meeting, of the province of Leinster, should be held on the first day of October, last—that the place had been appointed a considerable time before, and therefore premeditatedly—that instructions had been given by the secretary of the association to Mr. Browne, the Printer, to strike off a great number of printed advertisements one of which, printed in very large type, upon yellow paper, called together a provincial meeting of Leinster, &c., the people being so called upon to assemble, receiving this significant hint at the bottom of the placard, "Remember Mullaghmast." Now, why was Mullaghmast so brought to their remembrance? It was in evidence that Mr. O'Connell attended

that meeting, and the banquet which followed it, and on both occasions fully explained why he, acting on behalf of the association, had chosen it. He admitted that he had chosen it for the purpose of bringing to the recollection of those assembled the scenes alledged to have taken place there in former times. Whether that was likely to produce excitement or not, it had been proved that such was the reason given by Mr. O'Connell himself, that reason being that the people might have in memory the cruelties and the treachery of the Saxon race, with whom it was unsafe to have any dealing. It required some consideration to say whether the fact of Mr. O'Connell or the association taking upon themselves to collect together, by advertisement, 250,000 persons, was not in itself, and without more, an illegal act. He (the Chief Justice) did not say whether it was or was not, but this he would say, that those who ventured to call together such a meeting, must abide the consequences of their own act, and be responsible for what was done by the persons assembled. Those documents, detailing the slaughter of 400 horsemen at Mullaghmast, were, it appears, largely distributed through the field, and whether the people were called on to pay for them, seems to be of very little consequence, for if they were circulated for the purpose of informing them of what formerly occurred, it was sufficient—and he (the Chief Justice) could not help remarking that it was extraordinary that Mr. O'Connell, and the other persons who spoke, referred in their speeches to the very same topics mentioned in those documents, and called on the people never to trust the Saxons again; therefore, in his opinion, so far from those publications being unconnected with the professed objects of the meeting, he considered that they were intimately connected with them; for it would be impossible that two hundred and fifty thousand persons could be called together by advertisements, ~~at a~~ particular place, and totally unconnected with it. Under these circumstances he had not the slightest objection to admit the evidence.

Judge Crampton also gave his opinion in favour of the admissibility of the evidence, principally because it was intimately connected with the objects for which the meeting was convened. With respect to Mr. Moore's objection, he thought that it should be remembered, that one of the overt acts laid in the indictment ~~was~~ the meeting in question, under which circumstances the character of it, and nature of the proceedings, &c., were clearly evidence; and all the declarations of persons forming part of the assembly became important. All persons at a meeting, whether legal or illegal, were *prima facie* taking a part in it (unless testimony to the contrary was given) in which case their acts and declarations were to be considered; for which reason it was that what was said a quarter of a mile from the platform might be given in evidence against those upon the platform. Suppose that a person read one of those documents out loud to the people, even at a considerable distance from the platform, would it not be evidence? Certainly it would, and in the same way, if it be distributed to thousands, no lawyer could fairly contend that they should not be admitted in evidence against those speaking at the meeting. It was then said, to shew the speakers had no communication with them, that they were sold for half-pence each. Now, he (Judge Crampton) thought it would be a most dangerous rule to lay down that seditious documents should not be connected with a seditious proceeding, if distributed at it,

because they were sold. However, he would not go so far as to say that if ballad singers went and sung their ballads at such a meeting, they would be admissible in all cases in evidence, although in some they might. Under those circumstances, he was of opinion that the document tendered should be admitted.

Mr. Justice Perrin also agreed with his learned brethren, saying that he considered that the conduct and character of the meeting was already evidence, as well as the declarations of the persons there assembled. It appeared that "from morning until night" (those were the words of the witness) several persons were engaged "circulating and crying" through the meeting those documents, and no person appeared or endeavoured to stop them. He (Judge Perrin) did not say what the effect of the evidence would be, or could not, for he knew nothing of the document; but he did not see how it could legally be excluded; nor he did not say that it would affect the association or the traversers; however that was a matter for the jury to decide upon,

The Deputy Clerk of the Crown then read the document referred to in the preceding argument, which, not having been previously published, we give at length :—

**" THE FULL AND TRUE ACCOUNT OF THE DREADFUL SLAUGHTER  
AND MURDER.**

"The fate of those murdered martyrs is calculated to brace the sinews, and rouse in the minds of every Irishman a spirit of desperation—their blood cries yet to Heaven for vengeance. The day may not—we trust will not, come—brought about, as it must be, by British aggression, when that cry will be heard; but if it should, woe be to the conquered. That our readers may know beforehand the circumstances under which that black deed, in the annals of British crime—the slaughter at Mullaghmast—was perpetrated, we publish the following account of it, extracted from Taaffe's History of Ireland. His account may give some, perhaps a higher, gusto for attending the meeting. After alluding to the acts of grace with which the reign of Phillip and Mary commenced—such as the restoration of the house of Kildare—the creating of Charles Kavanagh a Baron, and the liberation from prison, where he had a long time been, of O'Connor, of O'Faly, Taaffe, who, as well as Leland, attributes these acts to a desire on the part of Phillip and Mary to re-establish the ancient religion, not to any love they entertained for Ireland, goes on to say :—  
"However a crime horrible to relate, which makes humanity shudder—effaces all the merits of this reign, and is not exceeded by the foulest act in the records of human depravity. The ancient inhabitants of Leix and O'Faly ever since the English settlement here, had to guard against the English encroachments. Their wars with the English in defence of their patrimony were frequent, only suspended occasionally by a peace in name, but a truce in fact. Sometimes ejected, they often retook possession at the point of the sword. The English, who beheld with their greedy eyes these fair well-cultivated plains (Morrison), wearied with the invincible courage and perseverance with which they fended their inheritance, had recourse to the vilest treason against the law of nature and nations, and against God, appealed to as a guarantee of treaties against man, whose

welfare is interested in fidelity to engagements. The chief men of the two septa (O'Moore and O'Connor) are invited by the Earl of Sussex as to an amicable conference to the Rathmore of Mullaghmasteen, to adjust all differences. Thither they unadvisedly came, all the most eminent in war, law, physic, and divinity—all the leading men of talent and authority, the stay and prop of the times, to the number of four hundred. They rode into the fatal Rath, confiding in the olive branch of peace held out to allure, in the character of ambassadors, sacred amongst all nations, even barbarians, heathens. They perceived too late that they had been perfidiously dealt with, when they found themselves on the sudden surrounded by a triple line of horse and foot, who on a given signal fell on those unarmed defenceless gentlemen, and murdered them on the spot. Ah, bloody Queen Mary; yes, blood-thirsty Philip, and his blood-thirsty spouse, in one day butchered 300 Irish Catholics—all cavaliers and men of chivalrous honour, the heroic descendants of one of the greatest heroes in the western world, Conal Kearnach, chief of the Knights of Ulster. And the sequel—full of horrid deeds—the army thus glutted with the noble blood of the magnanimous, the pious, the hospitable, the brave, were let loose like bloodhounds on the multitude, dispersed in their villages, now without counsel, union, or leader---a miserable massacre was made of those unhappy people over the whole extent of what is now called the King and Queen's Counties, without regarding either age or sex."

"The details of the diabolical outrages committed in those large and populous districts would make hell blush to be outdone by devils in human shape. I leave the reader to surmise the scenes of horror that ensued when the whole population of an extensive territory was consigned to military execution. A few brave men here and there sold their lives as dearly as they could. What conflagration of villages and unfortunate victims rushing from the flames on the spears of their murderers. What shrieks and lamentations of women and children. A brutal soldiery drunk with blood and the contents of the cellar, raging with fire and sword through the country, cutting down men, women and children with indiscriminate slaughter; children massacred before their affrighted parents reserved, for their greater torture, to die a double death; the first in witnessing the massacre of their innocents, and then being cut down themselves. The contemplation is horrible.

"Leland passes over most of these infernal deeds. Plowden omits them altogether; but though the former, the historian of the pale, speaks not of the enormous perfidy by which these gallant clans; the O'Moores and O'Connors; were circumvented, he does not entirely conceal the human barbarity with which their utter extirpation was pursued.

"Numbers of them (he says) were cut off in the field, or executed by martial law, and the whole race would have been utterly extirpated had not the Earls of Kildare and Ormonde interceded with the Queen, and become sureties for the peaceable behaviour of some survivors. Taaffe, in speaking of the catastrophe, says that the annals of Donegal, from which Leland copied, misdate it, confounding it with similar perfidy practised towards the Butlers, near Kilkenny in the reign of Queen Elizabeth. 'Had not,' he says, 'the warlike tribes of the O'Moores and O'Connors, been circumvented by treachery, their lands could not have been seized upon without a sanguinary war, nor have been browed

on adventurers, and converted into shire ground—the King and the Queen's county, which he proves they were—in the reign of Queen Mary.' The act of parliament by which this robbery was perpetrated, bears date 1556, not three hundred years ago; and as this barbarous massacre must have taken place before the passing of that act, no doubt is left about the reign in which it occurred. The preamble of the act itself is quoted by Taaffe at length, and the names of the counties and county towns substituted for the ancient names of Leix and O'Faly, viz.—King's County, Queen's County, Philipstown, and Maryborough, mentioned by him as collateral proofs that the massacre at Mullaghmast, and the converting of the territories of the O'Moores and O'Connors into shires or counties must have taken place in the reign of Philip and Mary.

"We allude to these particulars about the dates, because Curry and others have fallen into the same error with regard to it, as Leland, and because we are anxious to show Irishmen of every class that the antipathy exhibited by England to Ireland is more a national than a religious one—fully as much treachery, fully as much cruelty, fully as much barbarity having been practised by Catholic England, in proportion to her ability, towards Catholic Ireland, as there has in subsequent years been perpetrated by Protestant England. Tu-tonics and Celts, the races of the two countries, are different; like acids, they will not amalgamate, nor cannot meet without one neutralizing the other. For this reason, as well as numberless others, it is necessary that the parliament of the two countries should be separate, and the inhabitants of each be brought as little into collision with the others as possible. From first to last the Caucasian lords, from whom the Saxons are descended, that rushed on Europe, and as if hell had broken loose, for years barbarously desolated it, were a predatory race, bloody of mind, treacherous of disposition, and savage in their propensities—possessing little of the refinement, and scarcely any for arts that distinguished people of eastern origin—a taste that spreads such a halo over fallen Greece, and which once characterised and will again illuminate Ireland.

"The descendants of this race, like animals of the different species, inherit the different passions of their parents: and as nations, as well as animals, have each peculiar propensities, England may be called the tiger of all—possessing the insatiable thirst for human blood—the stealthy pace and piercing talons of the brute, which is tameable alone through fear. On this account those who know either the one or the other—either England, the tiger—will not, like the unfortunate people of Mullaghmast, trust to their clemency or mercy; but be prepared with the hard hand and iron heel to meet, strike down, tread upon, and subdue their butchering appetite. To drop the simile, however, and come to England herself: What disposition has she always displayed? Can her rapacity be stayed by anything but fear? Did she not always murder those who sued to her for mercy, and basely betrayed those who confided in her honor? Is her nature changed? No: consistent in villany, she is doing now in India what she formerly perpetrated in this country; and may she not do the same here again, if Irishmen be cowardly or foolish enough to give her the opportunity? Warned, at all events, they should be against her treachery. A picture of the slaughter at Mullaghmast should be hung up in every

Irishman's room, to remind him of the brutality and perfidy of England, by the latter of which, much more than by her valour, she obtained dominion in this country.

"Dublin: Printed by John Hanvey, 2, Fleece-alley, Fishamble-street."

Mr. Whiteside required to see the original document, which was handed to him.

Mr. Brewster stating that the traversers would be furnished with a copy.

The Attorney-General then proposed to read part of her Majesty's speech delivered upon the close of the last session of parliament; he wished merely to read that part of it which related to Ireland.

Mr. Henn and Mr. Moore objected to the admissibility of that piece of evidence.

The Attorney General was quite surprised at any objection coming from the traversers' counsel to this evidence. Several speeches of Mr. O'Connell's, and other documents commenting upon her Majesty's speech, were proved, and he was at a loss to know how any one could for a moment contend that the documents upon which those comments were made should be withheld from the jury. It was quite clear that the document which was the subject of comment was not only admissible in evidence, but was a very essential part of the evidence. Her Majesty's speech had been described as the words of a fishwoman, and other similar epithets had been applied to it; he therefore submitted that, as a matter of course, it should be read in evidence.

The Chief Justice---Oh, yes, there is no doubt about it.

The Attorney General handed in the *London Gazette*, published on the 25th of August, 1843, and published in Dublin on the 29th of the same month, containing her Majesty's speech.

The officer then read that part of the Royal speech, condemnatory of the persevering efforts of the leaders of the repeal agitation.

#### JAMES IRVINE EXAMINED BY MR. SERGEANT WARREN.

I reside in Liverpool, and am connected with the constabulary there; I was there on the 13th of October last, and saw placards relating to repeal posted on the walls there; I took one down, and now produce it. (The witness did so.) I saw several others of a similar nature also posted through Liverpool.

The witness was not cross-examined.

Sergeant Warren said this was a verbatim copy of the address to the British subjects, which was already read. It had Mr. Browne's name to it as printer, and would be read again if unnecessary.

The Court thought it necessary.

#### CHARLES VERNON, EXAMINED BY MR. SMYLY.

Holds the office of registrar of newspapers in the stamp department; the declarations made by the publishers and proprietors of newspapers are made in my office, and the newspapers are also lodged there as they are published; I have here the declarations lodged by Mr. Barrett, proprietor, printer, and publisher of the *Pilot*; I have seen him subscribe that document. (It was then handed in to the officer to be marked.)

This declaration was lodged in my office; it is that of the proprietor of the *Nation*, by Mr. Charles Gavan Duffy, I am not acquainted with Mr. Duffy's handwriting; the proprietor of the *Freeman's Journal* are George Atkinson and John Gray, M.D., and Edward Duffy, printer; I don't know the handwriting of the former, but I do know Edward Duffy's, and saw him write that name; these are copies of the original declarations (hand: them in)—they are certified by Mr. Cooper, who is the proper officer for that purpose; the declarations of Messrs. Barrett, Gray, E. Duffy, Atkinson, and Charles Cavan Duffy are all certified by Mr. Cooper; I have with me copies lodged of the *Pilot*, *Freeman's Journal*, and *Nation*; I took them from the Stamp Office; I have the *Nation* of the 10th of June, 1843 (the witness here unfolded a large bundle of newspapers); it purports to be signed by Charles Gavan Duffy; I assessed the duty upon it, and it has been paid,

Mr. Smyly asked the witness to read the leading article in the *Nation* of the 10th of June.

Mr. Whiteside called for the certified copy of the declaration, and submitted that Mr. Duffy's handwriting should be first proved. There was no evidence whatever of it yet. He insisted that the declaration was not made according to the provisions of the statute, and cited 3d Carpell, page 98, to show that it should appear upon the face of the document that the person before whom the declaration was made had the authority to take it. Nothing of the sort appeared in the declaration now read, and it should not, therefore, be received as evidence.

The witness, in answer to Mr. Whiteside, said that Mr. Cooper was the proper officer for taking the declaration of newspaper proprietors and publishers; but he was not aware how Mr. Cooper was appointed—whether by a commission or otherwise.

The Attorney General said, in order to satisfy Mr. Whiteside, Mr. Cooper was in court and would be examined.

Jonathan S. Cooper, who was examined by Mr. Smyly, stated that he was Comptroller and Accountant General in the Stamp Department for nearly 20 years. One of his duties was to take and subscribe the declaration of proprietors, printers, and publishers of newspapers. The declaration then in his hand was made before him on the 18th of November, 1842, by Mr. Charles Gavan Duffy, as proprietor of the *Nation*. Witness saw him sign it, as also the declarations made and subscribed by George Atkinson and John Gray (as proprietors), and Edward Duffy (printer) of the *Freeman's Journal*, on the 18th February, 1841; as also the declaration of Mr. Barrett (proprietor of the *Pilot*), on the 8th of December, 1837.

#### CROSS-EXAMINED BY MR. WHITESIDE ON BEHALF OF MR. DUFFY.

I am authorised by commission to act as Comptroller. Has not my commission here, it is at home. The date (18th November, 1842), in Mr. Duffy's declaration is correct.

Mr. Whiteside—I am instructed that this date cannot be correct

To Witness—Pray do you know Mr. Duffy? Can't say I do.

Mr. Whiteside—The gentlemen on the other side must go further. I really wish that they should prove Mr. Duffy's handwriting distinctly, if



they can do so. The witness now on the table knows nothing whatever of Mr. Duffy, the traverser.

Do you know Mr. Charles Gavin Duffy, sir? No.

Thank you (a laugh).

Do you ever read the reports of the repeal meetings in the *Evening Mail*? Very seldom.

Do you ever read them in the *Nation*? No.

Or in the *Freeman*? No.

Or in the frigid *Saunders*? (laughter). Sometimes.

Mr. Whiteside submitted that there was not a particle of proof that Mr. Duffy, the traverser, was the party who signed the declaration of proprietorship produced. It might have been that some person signed it in Mr. Duffy's name. In criminal cases the evidence of identification especially ought to be very distinct; it ought to be proved by some person who knew the defendant.

The Attorney General said that newspapers were published under the 8th section of the 6th & 7th Wm. IV., and there was a heavy penalty on any person publishing a newspaper without having a certificate, which was to be lodged in the stamp office. The question for the consideration of the court was, whether or not the production of the certificate produced by the proper officer, and signed by the person purporting to be Charles Gavan Duffy, was not sufficient *prima facie* evidence that the *Nation* newspaper was published by Duffy the defendant? He (the Attorney General) submitted that it was; and besides this, that Mr. Duffy, by other testimony given in the course of the trial, was connected with the *Nation* newspaper as its editor. He did not think that, under these circumstances, they ought to be called upon to prove the hand-writing of Mr. Duffy.

Mr. Whiteside persisted in his objection.

Mr. Justice Perrin (to the Attorney General)---Can't you prove the hand-writing, and get rid of the argument?

Mr. Whiteside---That is all I want, and they can very easily do it: The evidence before the court is not enough here.

The Chief Justice---The rule is, that the law of evidence in criminal and civil cases is the same.

Mr. Whiteside said he did not think that the certificate produced could be the right document, inasmuch as it was dated on the 18th of November, and the first number of the *Nation* was published on the 8th of October.

Mr. Brewster cited the case of *Mayne v. Fletcher*, 9th Barnwell and Cresswell, p. 382, in which it was laid down that the production of the certificate of proprietorship, and an attested copy of the paper, was sufficient evidence of identification. This form had been complied with on the part of the crown, and he thought they were not bound to go further.

Mr. Justice Crampton---Does it not plainly appear that one Charles Gavan Duffy is the proprietor and printer, and publisher of the *Nation* newspaper? Identification is all that is wanted. Now, I have on my notes more than once that Mr. Duffy, the traverser at the bar, is the editor of the *Nation*.

Mr. Whiteside said, with great submission to his lordship, he thought the only evidence of that kind before the court was that Mr. Duffy went one night to Calvert's theatre and handed in some money.

Mr. Justice Crampton—I don't think that that is the evidence I allude to.

Mr. Brewster referred to a case wherein an action for libel was brought against the editor of the *Chester Chronicle*. It was tried at the spring assizes of 1829, and the certificate was objected to, as in this case, not being sufficient to identify the party, and the objection was overruled.

Mr. Justice Crampton—The evidence to which I alluded just now, as being on my notes, is that of the witness Jackson, who said that Mr. Duffy, of the *Notion*, attended a certain meeting, and handed in so and so.

Mr. Whiteside said he did not think their lordships would act upon that evidence, as the witness stated that he could not say whether he took his report from the slips of another reporter or not. There must be some evidence that the party who signed the declaration at the stamp-office is the party now on trial. There was not, he again submitted, the slightest evidence of a legal character before the court as to Mr. Duffy's identification in that respect.

Mr. Tomb said that in the act of parliament already referred to, it was laid down "that in all proceedings, every such copy (meaning the certificate) so produced and certified, is to have the same effect for the purposes of evidence against every such person named in the certificate as aforesaid, and to all intents and purposes whatsoever, the same having been proved to have been only signed and made by the person appearing and producing it."

Mr. Brewster—And in the case of the *King v. Hunt*, 31 State Trials, p 375, the production of the certificate signed by the commissioners, and a copy of the paper in question, was held by Lord Ellenborough to be sufficient evidence of identification.

Mr. Whiteside still contended that sufficient evidence was not before the court for that purpose in the present case.

Mr. Justice Crampton—Suppose there were two traversers on trial of the same name and on the same charge, and that evidence of the same kind was brought forward, which of the two is exclusively bound by the act of parliament? Which of the two is it evidence against? I merely mention this to show that very slight evidence of identification is required. For my own part I have very little difficulty about it, for I find on my notes the evidence of Mr. Jackson, who was very ably and fully cross-examined, in which Mr. Duffy is called the editor and proprietor of the *Notion*. Certainly I think Mr. Whiteside is right in the ground he has taken, that something in addition to what has already been stated is required by the statute of evidence.

The Solicitor General said it was understood that each witness should not be called upon to identify over and over again the traversers.

Mr. Whiteside observed what he required could be easily proved.

The Attorney General said that he had a very great objection to going into proofs which was not required by the terms of the act of parliament. There was no such case as that suggested by Mr. Justice Crampton in existence here.

Mr. O'Hagan said, with reference to the evidence of the witness, Jackson, that he had not stated that it was Mr. Duffy, the traverser, he saw hand in the money. He had not identified the traverser. He merely spoke of Mr. Duffy, of the *Nation*, but he gave no evidence to show that even the Mr. Duffy he spoke of was the person who signed the declaration at the Stamp Office.

The Chief Justice confessed that the counsel for the crown had not satisfied him that the evidence was sufficient. He thought that the proof for the present was imperfect. His lordship in support of his opinion referred to the 8th section of the act, but on reading it he declared he now saw that the words of the act did not bear out the view he was disposed to take, and he decided that the evidence was sufficient.

Mr. Justice Crampton said he had a difficulty in coming to the same conclusion at which the Chief Justice had arrived on reading the section of the act; but he abstained from giving an opinion on the point, as he conceived there was sufficient *prima facie* evidence in Jackson's testimony to establish the identity of the traverser; and, therefore, the proof offered should be admitted.

Mr. Justice Perrin thought that the section cited did not go to the object for which it was cited. The intention of the legislature was to facilitate the proof of the fact of publication as against proprietors or publishers of newspapers, but not as against other individuals. He held that the proof offered in this case was not sufficient.

Mr. Bennet was about making some observations, when

The Chief Justice said that the court had now decided that the evidence should be admitted.

Mr. Whitside said he would save the point, and requested the court to take a note of the objection, which was done.

The court adjourned for a short time. When the sitting was resumed,

Mr. Vernon, of the Stamp office, was recalled, and examined by Mr. Smyly.

Have you got a *Nation* newspaper of the 10th of June? I have; it was the paper lodged at the Stamp-office, pursuant to the act of parliament; it purports to be printed by C. G. Duffy, proprietor and editor, Trinity-street, Dublin.

Witness was then directed to turn to the leading article of the paper, page 552, and to read it. It was written in consequence of a correspondent having condemned the placing the names of Clontarf and other Irish battles on the repeal card, as he believed it would have been better to have substituted such words as—"Temperance," &c. The article dissented from this principle, and at some length the writer argued that war sometimes elicited great virtues, particularly a just war. The article concluded with a quotation from Dr. Arnold's "Lecture on History."

Mr. Whitside asked the witness to turn also to the report of the proceedings of the associations in the same paper, and to read them.

Witness did so—The speech of Mr. O'Connell was in support of a resolution for inserting on the minutes the letter of Mr. Smith O'Brien, containing his resignation of the commission of the peace for the county Limerick. He spoke in high terms of Mr. O'Brien, who he stated was a most independent member of parliament, while his arguments in favour of

repeal were unwarrantable. The speech also contained a strong expression by Mr. O'Connell of his wish that in all regulations between landlord and tenant the rights of property, &c. would be respected. Mr. Steele's speech on this occasion was omitted for want of space, and the resolution as to Mr. O'Brien's letter was carried. Mr. O'Connell then addressed the meeting, condemning the conduct of the chartists in England, and advising the repealers of Ireland to expel them from their associations, and have nothing whatever to do with them. The speech then proceeded to allude to the unequal state of the parliamentary franchise in both countries, and expressed an apprehension that in a few years there would be no such thing as a liberal constituency in Ireland. It then alluded in denunciatory terms to the Poor Law Amendment Bill, and called upon the people to unite peacefully and constitutionally to obtain redress for their grievances.

The Chief Justice-- I don't know how you propose making that evidence ?

Mr. Vernon continued to read to the conclusion of Mr. O'Connell's speech, and then stopped short, as he expected to be asked to read no further, but Mr. Whiteside told him to read the address to the people of Ireland.

The Chief Justice---Wasn't this read already ?

Mr. Whiteside---No, my lord, it was not, and this is the document which explains all the objects of the association.

The witness then read the address at length, and having come to that portion of the report which stated that Mr. O'Connell moved the adoption of the report---

Mr. Henn respectfully submitted that if the crown gave in evidence any document, and read only part of it, they had a right to have it all used as evidence for the crown. This was laid down in *Phillips upon Evidence*, 5th Carrington and Paine, page 238 ; and in 7th Carrington and Paine, page 386, the very point was decided. These authorities, he contended, established that the whole of the document was clearly evidence---it was made evidence for the party who produced it.

Judge Perrin asked Mr. Henn if he recollected the case of the King *v.* Perry. He knew it was decided in that case that the advertisement in a remote part of the paper could not be read in evidence.

Mr. Henn---I do not know if that case had reference to the other party or not.

Judge Perrin---It is reported at all events.

Mr. Henn---When the party on the other side call for a document and looks at a portion of it, we are entitled to have it all in evidence.

Chief Justice---Yes, but the crown does not call for it here.

Mr. Henn---That is in a *fortiori* case. The party calls for it here, and when they look at it, we are entitled to have any portion of it read.

Chief Justice---That may be very good law in a particular case, but it is no general rule. Hand me up the book.

Mr. Henn handed up the book from which he quoted, and the Chief Justice read it for some time.

He then read another portion out of Carrington and Payne, and said if a plaintiff read a portion of a document in evidence he could make

that portion evidence; but he would submit that the other side was at liberty to commence reading at the first advertisement in the *Nation*, and go down to the end of the same paper.

Mr. Henn—Now, that is not the fact that we rely on. We want the portion relevant to the matter, and it is monstrous to say we are not entitled to them.

Attorney General—If the article in the *Nation* headed, "Morality of war" made reference to any portion of a speech of Mr. O'Connell, published in the same paper, which speech had reference to the grievances of Ireland, I then admit you would be at liberty to go over to that portion of the speech; but there is no reference to any speech of the sort, nor was there any allusion to the people in the speech of Mr. O'Connell. He then read another portion of Carrington and Payne's book.

Mr. Fitzgibbon said that his intellect was too obtuse to comprehend how an argument upon a point of law could be affected by translating, as the Attorney General had done, the sentence "the morality of war," into "the morality of rebellion."

Mr. Monahan said the case cited by the Attorney General from Adolphus and Ellis had nothing to do with the present one.

Mr. Justice Crampton—Do you contend that all contained in that newspaper is evidence?

Mr. Monahan—I contend that everything bearing upon the question at issue should be read.

Mr. Justice Crampton—Was the paragraph admitted to be read relevant to the offence with which the individual is charged?

Mr. Monahan—It was relevant to the offence charged. The offence there was a libel, and the paragraph allowed to be read was in different type from the article containing the libel.

Judge Crampton—The question is, whether one article explains or modifies the other, or whether it can be made applicable to the offence charged?

Mr. Monahan—There was no explanation in the case. The articles were evidently written by different persons, and they were in different types.

Mr. Justice Crampton—Will you allow me to look at the case of the *King v Perry*?

The Solicitor-General said the question here was, whether the crown having read from the *Nation* newspaper of the 10th of June the whole of an article published by the editor of the paper called "The Morality of War," the defendant had a right to insist on reading another part of the papers upon a different subject matter, that being a part of a speech made by Mr. O'Connell not on the same day, but three or four days before the publication in question. Mr. Fitzgibbon, who argued this case with his usual earnestness, said he would expose the stark and naked deformity of the case. He (the Solicitor-General) had no objection to its being exhibited to the world. The argument of Mr. Fitzgibbon was this, that the crown having offered a certain article in evidence they thereby pledged and bound themselves in law to give every word from beginning to end which appeared in that publication.

Mr. Fitzgibbon—I said no such thing.

The Solicitor-General knew he did not say so in terms ; but that was the argument made use of. The question was, whether the crown, relying on so much of a publication as they considered pertinent to the case, and giving it in evidence, were bound to read another portion of the same publication, which, it was said, qualified the portion the crown offered. He contended they were not bound to do so. The case of the *King v. Perry*, in 2d Campbell, was referred to, but the article or advertisement read in explanation was a part of the same publication, and modified the article containing the libel.

Mr. Justice Crampton said the only suggestion was whether this which had been read was part of the prosecutor's evidence or of the defendant's evidence. They need not enter into the question, whether it ought to be read, for that was passed by.

The Solicitor-General said that justice required to have any part of the publication read which qualified the sense of another ; but he did not admit, that because the same publication contained language material for the defendants, as bearing on the general nature of the charge, it was admissible.

Mr. Justice Crampton said the question was, whose the evidence was, whether the defendants' or the crown's.

The Solicitor-General would say no more if it was considered the evidence of the defendants.

The court consulted for some time, and the Chief Justice said the court did not want to stop the Solicitor-General.

Mr. Hatchell said that in the case of the *King v. Hardy* Mr. Erskine called on the Attorney-General to have a quotation from Thompson's *Seasons* read, and no objection was made.

Mr. Whiteside—Nothing so pleasant here.

The Solicitor-General replied.

The Lord Chief Justice said the question was by whom the speech was read, and the court were of opinion that it had been read on the part of the traversers.

Mr. Whiteside—Not on the part of all the traversers, but only for one of them.

Judge Crampton said he concurred with the Lord Chief Justice.

Judge Ferrin said the evidence was admissible, but he (Judge Perrin) concurred with the rest of the court in thinking that it should form part of the testimony given on the part of the traverser who called for it to be read.

The Deputy Clerk of the Crown then read the article from the *Nation* of the 12th of August, 1843, entitled "The March of Nationality."

The Deputy Clerk of the Crown also read, at the instance of Mr. Smyly, paragraphs from the same paper of the 12th, the first being one respecting the admission of Mr. Hearne as a volunteer, and his nomination by Mr. Duffy and Mr. O'Connell.

The next paragraph purporting to have come from a military correspondent, ridiculing the steps taken to fortify the barracks, and contradicting the assertion that the soldiers at Tuam did not shout for O'Connell and Repeal.

Mr. Whiteside said that he did not find this in the copy of the *Nation* which he had been furnished with.

Mr. Smyly stated that this was a second edition of the *Nation*, and the paragraph was in the edition signed by Mr. Duffy, and proved by the officer as having been sent to the Stamp Office.

Another passage was next read by the crown to show the manner in which repeal papers were sent to the localities subscribing 10*l* or 20*l* to the funds of the association.

Some discussion then arose as to whether, in this stage of the proceedings, the traversers could call for the reading of other articles in the same paper, when

Judge Crampton suggested that it would be more convenient to read all that might be required in each paper before going to any other.

At the instance of Mr. Whiteside a long extract was read from Mr. O'Connell's speech, in which he recommended the repealers of the north to submit to injuries from the Orangemen rather than resent them, and that if they did so they would be secure, and obtain legal redress.

A letter was also read from Mr. Sharman Crawford, dated the 1st of August, 1843, at great length, adverting to the question of a federal parliament, and noticing the grievances which required to be redressed.

The Court was about to rise shortly after five o'clock, when

Mr. Henn, Q.C., intimated that Mr. Maunsell, who had been required to attend by the court, in consequence of writing an objectionable letter to the High Sheriff, was now present. Mr. Maunsell had instructed him to state that he had not the least intention of offering an insult to Mr. La Touche, or of interfering with him in the discharge of his duty. If necessary, Mr. Maunsell was prepared to make an affidavit of the facts.

The Chief Justice observed that Mr. Maunsell had acted very prudently in being guided by the advice of the counsel who appeared on his behalf. He should make an apology to Mr. La Touche for having presumed to interfere with one of the highest officers connected with the administration of justice. The High Sheriff had very properly laid the letter sent to him before the court, and in doing so he had no object but the vindicating of a principle, that officers connected with the administration of justice should be protected in the discharge of their duty. The court were persuaded that Mr. La Touche had not been actuated by any personal or vindictive feelings, and Mr. Maunsell had acted very unguardedly and giddily in the course he originally pursued.

Mr. Henn—He has instructed me to state that he had no intention of personally wounding the feelings of Mr. La Touche, and if the sheriff thought otherwise he must have been mistaken.

The High Sheriff observed that he felt it his duty to mention the matter as soon as it took place. He had no acquaintance with the gentleman, and entertained no personal feeling towards him; but in the discharge of a public duty he referred the letter in question to the court. It concerned the court, and not himself as an individual. The act of Mr. Maunsell arose in consequence of the inability to give him a ticket of admission on an occasion when he required it, and when his demand could not be complied with.

The Chief Justice—Mr. Mau. sell must personally express his regret at what occurred, and apologise for his proceedings.

Mr. Maunsell here said that he felt at the moment excited by the manner of the High Sheriff, but he had to express his regret if he gave any annoyance to the court or its officer, Mr. LaTouche.

The Chief Justice—You have made an apology for your inadvertent conduct, and let there be no more said about it.

The court then adjourned to ten o'clock, next morning.

---

#### NINTH DAY.

The Lord Chief Justice, Mr. Justice Crompton, and Mr. Justice Perrin, entered the court at a few minutes past ten o'clock. Mr. Justice Burton was still unable to attend.

The Deputy Clerk of the Crown having called over the jury and traversers,

Mr. Gartlan, agent for Mr. Duffy, made an application to the court to have the traverser excused from attendance until two o'clock, on the ground of illness.

The Chief Justice said he could make no order on the subject. It rested with the Attorney General whether, in case of the traverser's absence, he would have him called on his recognizance.

The Attorney General said that under the circumstances he would take no notice of the traverser's absence.

Mr. Duffy then withdrew.

Mr. Vernon, of the stamp-office, having produced the *Nation* newspaper of the 12th of August, from which the article headed "The March of Nationality," was read last evening.

Mr. O'Hagan, on the part of Mr. Duffy, required that the address, "To the People of Great Britain," signed by Mr. Smith O'Brien, and other Irish members, should be read, which was accordingly done by the officer of the court.

Mr. Smyly, for the crown, called on the officer to read from the *Nation* of the 26th of August two articles, headed "The Crisis is upon Us," and "The Irish Congress," which was done.

M. O'Hagan then read from page 726, the third column of the *Nation* of the 26th of August

The Attorney General said he was obliged to object to passages being read by the traversers from the papers proven by the Crown, unless they were intended to qualify the effect of the passages read by the Crown. He would not have urged his right were it not that the traversers had read Mr. Sharman Crawford's letter, and other long documents, in no way connected with the direct proof. It was for that reason he felt bound to call upon the court to have the ordinary course pursued, namely, that when the traversers' case had opened, that then and then only they should prove their case, for it was then their lordships could judge if what was tendered was evidence. The crown wished to close their case within a reasonable period, which would be utterly impossible if the public time



was to be occupied by reading documents which they did not want, a practice not at all in accordance with the rules of the court. In the first place, they should read what they considered important to the case; and subsequently the traversers could read what they considered important, after their case was stated. It was for those reasons he wished to take the opinion of the court.

Mr. Hatchell said that, upon behalf of the traversers, he had to state that, in consequence of what had fallen upon the previous evening from the crown counsel, and the court acquiescing in the course they were pursuing, he felt surprised at the deviation made by the Attorney General. In consequence of that arrangement the traversers had prepared themselves in a particular way, thinking that no objection was to be taken upon the faith that the matter had been settled by their lordships. He (Mr. Hatchell) was sure that it was not intended by his friend (the Attorney General) to do anything to embarrass his clients, but he would say that it would be both unfair and unjust to alter the original arrangement; in fact it would take his clients by surprise; and he was sure it was a proceeding that would not be sanctioned by the court, to make a rule one day and break it the next.

Mr. O'Hagan was about addressing the court upon behalf of Mr. Duffy, when

The Chief Justice interrupted him, saying that the court conceived that the arrangement was entered into by the counsel on both sides to finish with one paper before they went to another, considering that it would be the most convenient way of disposing of them; however it was probable when it was made that it was not anticipated that the reading of documents by the traversers would have consumed so much time, or have been of so unconnected a nature with the subject examined upon by the crown. He was sure it was not anticipated by the Attorney General or the court; at the same time he did not see any great inconvenience that could arise from allowing the traversers to have passages read from the last paper after the crown had done with it; but he hoped they would not take any unnecessary advantage of the arrangement.

The Solicitor General stated that his learned friend the Attorney General would not have attempted to interfere with the arrangements, had not the traversers read documents totally unconnected with the direct proofs, and had not the strict rule of court been with him.

Judge Crampton—No doubt the strict rule of practice is with you, Mr. Solicitor General, but the arrangement alluded to was made upon my suggestion, considering that each paper should be concluded with. However, I did not anticipate that the traversers would call for the reading of irrelevant matters. The arrangements made was an indulgence given to them, and I hope and am sure it will not be abused.

Mr. O'Hagan remarked that Mr. Whiteside had not come to court upon the understanding that the arrangement was settled, and requested the officer of the court to read from page 726, the 3d col. of the *Nation*, of the 26th of August, 1843.

The Deputy Clerk of the Crown then read an article containing a correspondence between Mr. Henry Sugden and Mr. Valentine Blake, relative to his dismissal for attending a repeal meeting.

The *Pilot* of the 7th of June was then produced by the crown, in which the order of procession to be used at the Drogheda repeal meeting was set out.

The Deputy Clerk of the Crown here read, at the suggestion of Mr. Smyly, the speech of Mr. O'Connell at Drogheda, reported in the *Pilot* newspaper of the 7th of June; also an article which appeared in that paper, headed "Repeal—Ireland—General Drogheda Demonstration." The particulars of the procession at the meeting, and the speeches of Mr. O'Connell and others at it, were given in the article.

Mr. Smyly also desired the officer to read lower down on the column, "The dinner," which he did. It appeared that from this article, Mr. O'Connell, Mr. Steele, and Mr. Barrett, were entertained at a public dinner in the Linen-hall; covers were laid for 400. The Rev. Mr. Tyrrell was also present. The officer next read a speech of Mr. Barrett, in the same paper, to the toast of "The People," which was "drunk with great enthusiasm," upon the occasion.

Mr. Smyly (to the deputy clerk of the crown)—Now, will you turn to the second column, and read Mr. Steele's speech, commencing "Mr. Steele was received with great applause."

Mr. Bourne read the paragraph commencing as follows:—"He (Mr. Steele) renewed his denunciation of Wellington and Peel, and of Cromwell's memory, and concluded by saying that if Ireland, and Ireland's leader were compelled to resistance, that as he (Mr. Steele) had for so many years above all others laboured to keep the peace of Ireland, he would in that case find it a duty to his country, and to his own character, to solicit from his august friend, Mr. O'Connell, that he would appoint him to the leadership of whatever enterprises were the most desperate, to set an example to the Irish, and give proof to the Irish that although for years he had been keeping the peace of the country, he was ready to share their dangers if Ireland was driven to extremity by the Oliver Cromwell's or the day (tremendous applause).

Mr. M'Donough, Q.C., called on Mr. Bourne to read the commencement of the report of the meeting (at Drogheda) headed "Repeal—Ireland" and to state to the court and jury the names of the persons who were on the platform.

Mr. Bourne read the paper stating that Messrs. E. B. Stafford, Nicholas Boylan, E. Balfé, Thomas Matthews, ——— Flemidg, and several others, were present.

Mr. M'Donough called on Mr. Bourne to turn to the second column and read the article headed "We are not Slaves."

Mr. Bourne read the article, which commenced by saying that there were but two modes by which redress could be hoped for—one physical force, and the other moral force; the first the Repealers repudiate, and the second they adopted.

Mr. M'Donough called on Mr. Bourne to read part of the report of the meeting containing the names of the movers and seconders of the resolutions.

Mr. Bourne read the part which stated that one of the resolutions was, that the address which was read should be adopted, as conveying the sen-

tinents of the meeting. This was moved by Mr. Boylan, T.C., and seconded by Mr. Bernard Finegan, and carried unanimously.

Mr. M'Donough—Now please to go to the dinner, and—or before you do read another resolution given in the 5th column, it was moved by Mr. Campbell.

Mr. Bourne read the resolution, which was that a petition be presented to the Imperial Parliament, praying for a repeal of the act of legislative Union, which was carried. The secretary then read the petition.

Mr. M'Donough then requested Mr. Bourne to read the toasts which were drunk at the dinner.

Mr. Bourne read the names of the toasts as follows:—"The health of the Queen, God bless her." "Prince Albert." "The Prince of Wales, and the Princess Royal." "The Duchess of Kent." "The People."

Mr. Smyly then called on Mr. Vernon to produce the *Pilot* of the 12th of June.

Mr. Vernon produced the paper, and proved that Mr. Barrett's name was to it, as proprietor, and that it came from the stamp office.

Mr. Smyly called on Mr. Bourne to read part of the report of the Kilkenny dinner, which stated that the chairman of the meeting was Mr. Edward Smithwick, and that Mr. Thomas Steele was present.

Mr. Bourne read the report.

Mr. Smyly next called on Mr. Bourne to read Mr. O'Connell's speech at the dinner, after the toast of "The repeal of the union."

Mr. Bourne read the speech of the hon. and learned gentleman.

Mr. M'Donough then called upon the officer to read the report of the proceedings at the Kilkenny meeting, copied from the *Freeman's Journal* and the *Kilkenny Journal* into the *Pilot* of the 12th June.

The officer did so. It appeared that, at this meeting, Mr. Pierce Somerset Butler presided. The speeches were similar to those already read.

Mr. M'Donough proposed to read a single passage of Mr. O'Connell's speech, in order to save the public time; and the crown counsel might take the whole speech as if it had been read in evidence. It was, however, ultimately determined that the entire of Mr. O'Connell's speech, and the other proceedings at the Kilkenny dinner, should be read.

Mr. M'Donough said a variety of letters were read, amongst which was one from Dr. MacHale, who signed himself "John, Archbishop of Tuam" (a laugh)—Sir C. O'Loughlen, the Rev. Dr. Cantwell, &c. He desired to have those letters entered as read.

The officer then read the names of the persons from whom letters of apology were read, also the list of toasts proposed at the dinner; the names of the several airs by which they were succeeded; also an article which appeared in the *Pilot* of the same date, replying to, and commenting upon an article in the *Times*, with reference to the state of Ireland.

At the suggestion of Mr. Smyly and the Attorney-General, the officer read the comments of the editor of the *Pilot* upon the article in the *Times*.

Mr. M'Donough insisted upon his right to have the whole of the articles read to the jury.

The officer accordingly did so:

At the suggestion of Mr. Smyly, the deputy clerk of the crown next referred to the *Pilot* of Wednesday, the 14th of June, 1843, and read an article headed "Repeal—Ireland," descriptive of the Mallow meeting. It stated that "the procession went on in admirable order, amidst the cheers of the people and the music of 40 bands. There could not have been less than 400,000 persons congregated on the occasion." He then read Mr. O'Connell's speech at the meeting, in which he said "that the people of Ireland would no longer submit to be branded and vilified by the Saxon. He was counsel for Ireland, and the people were his clients, and if they acted on his advice, their country would soon be 'free.'" The deputy clerk of the crown then referred to the report of the dinner at Mallow, in the same paper. It stated that after the usual loyal toasts the chairman gave "The People," and called on Mr. Murphy for a song. Mr. Murphy accordingly sang those beautiful and touching lines of Moore commencing with—

"Where is the slave so lowly?"

(laughter). The officer of the court next read the report of Mr. O'Connell's speech, in returning thanks for his health being drunk, in which he said, "There was no House of Commons on Thursday last, because the cabinet were considering not what they could do for Ireland, but what they could do against her; but so long as they leave us a rag of the constitution, we will stand on it and maintain our rights.---(A voice---We are ready to meet them.) To be sure you are. I do not think you are cowards or fools; but I was speaking of our being assailed. The Act of Union was a fraud and an imposition, and we have a right to demand its repeal. Are we to be called slaves, or are we to be trampled on? No, they never shall trample on us---they never shall trample on me. Yes, they may trample on me, but it shall be the dead body they shall trample on, not the living man. Ireland was never so peaceable as she is at present, and if she continues so the union will be repealed. Let no man tell me that if the government take one step we will not take another."

Mr. Smyly---Look at the next column---the toast of the "Protestant Repealers?"

The Clerk of the Crown read---The next was the "Protestant Repealers, and honest Tom Steele." (laughter.) "Mr. Steele returned thanks."

Mr. M'Donough---Is that all?

Clerk of the Crown---That is all that is here (laughter).

At the request of Mr. M'Donough, the officer read the report of a speech made at the same meeting by Edmund Burke Roche, M.P.

The Court here adjourned for a quarter of an hour.

Mr. M'Donough resumed by reading in evidence a short speech of Dr. Gray at the association, 14th of June, 1843.

Mr. Smyly then called on Mr. Vernon to produce the *Freeman's Journal* of the 7th of August, which he accordingly did, and by direction of the proceedings at the monster meetings in the county of Wicklow, headed "Great Demonstration of Wicklow."

The speeches have been already put in evidence, and partly published.

The reading of the report of the proceedings occupied the court for upwards of an hour.

Mr. Smyly to witness---Look at the report of the dinner, and tell us whether Mr. Steele was there?

The witness referred to the paper, and read that portion of the proceedings at the dinner where Mr. Steele was stated to have responded to the toast of "The National Repeal Association, and Tom Steele."

The Attorney General asked the witness to see from the paper if Mr. Steele were present at the dinner.

Mr. Whiteside, though not Mr. Steele's counsel, said that in his opinion what the paper stated was not evidence against him.

Justice Crampton observed that the effect of the evidence was for a future time.

The Attorney General said he was prepared to prove that everything read was evidence against the traversers. He would not urge the argument then; but he feared if he remained silent that he would be taken to acquiesce in the observation of Mr. Whiteside, that the paper was not evidence against the traverser.

The Chief Justice said that the Attorney General had not conveyed that he had acquiesced in the observation referred to, nor had any point been raised by Mr. Whiteside.

The Clerk of the Crown then read an article in the *Pilot* newspaper of the 16th of August, referring to the meeting at Tara. The article commenced with the words "Mighty and magnificent demonstration upon the Hill of Tara," "*Freeman's Journal*," and then went on to say that "Europe, perhaps the world, never witnessed such a meeting before"---that there were a million of persons at Tara---that a gentleman who was present represented that there were several Belgian, French, Italian, and American gentlemen at the meeting; therefore it was no wonder that Irishmen should come from different parts of Ireland for the same purpose. The article then described the bands which accompanied the procession to and from Tara.

The Clerk of the Crown next read Mr. O'Connell's speech at Tara, in which he declared the act of union to be a nullity, and void in constitutional law; that there was no real union between the two countries; that there was no power vested in the Irish houses of parliament to pass the act of union; that he could refer to "Locke on Government," Lord Plunkett and Mr. Saurin, for the position he took. It went on to state, in Mr. O'Connell's words---"I am here the representative of the Irish nation, and in the name of Ireland I proclaim the union to be a nullity. I submit to the law until I can have it changed." In another part of the speech Mr. O'Connell said---"When you have heard the resolution read, I hope you will disperse peaceably, and go to your homes (cries of we will). And if I wanted you, would you not come again to Tara Hill? (Yes). If danger should come you will not find me in the rear ranks." Amongst the names of those present were those of John O'Connell, the Rev. Mr. Tyrrell, of Lusk; Richard Barrett, Thomas Steele, and Dr. Gray. Those gentlemen were also stated to have been present at the banquet at Tara on the evening of the same day. The chairman proposed as a toast, "Daniel O'Connell and the Repeal of the Legislative Union."

Mr. Bourne read the speech of Mr. O'Connell, in which he said, "he would venture to assert that while he lived no outbreak would take place ; but sooner or later the day would come when, if the evils were not corrected, they (the government) would rue their present want of policy." Then followed passages to the effect that "it was perfectly plain things could not remain as they were ;" and "never was greater folly exhibited than by the gentry who will not join us."

Mr. Bourne then read a speech of Dr. Gray's delivered at the Tara banquet, in which he stated that "the members of the press were politicians in the strongest sense of the word." The repeal press was a political press—"its politics were the politics of Ireland." Dr. Gray, also said "they had their national council—the monarch of the Irish heart—the spiritual peers of the realms—the clergymen of the land—the constitutional representatives of the people."

Mr. Smyly called the attention of the witness to the fifth column of the same page, headed, "The *Pilot*—Repeal," in which the following passage appeared :—"It may be right to remind the repeal public that any locality which contributed 20*l.* has a right to a *Pilot* newspaper instead of a weekly paper."

Mr. M'Donough, on the part of the traversers, asked the officer to read a passage in the fourth column of the same paper, commencing with the words, "It was not the least interesting portion of the meeting, that Captain Mockler attended it as a magistrate and a repealer, to preserve the peace."

Mr. Bourne then, at the request of Mr. M'Donough read some of the proceedings at "The Banquet," in which it was stated that Mr. Grattan came forward amidst great cheers, and addressed the meeting. He said he had been at all times a friend to the cause, and so had been his father. He observed that he came to that country with the motto on his banner, "Down with the Tories."

Mr. Bourne next read a letter from Mr. Smith O'Brien, and another from Mr. Sharman Crawford, apologising for not being able to attend the Tara meeting.

Mr. Smyly next called on Mr. Vernon to produce the *Nation* of the 19th of August, 1843. The witness having done so was directed to turn to page 706, and was asked if there appeared to be a report of the meeting? The witness having answered in the affirmative, was referred to page 712, and proceeded to read an article headed "Tara Meeting," having reference to that meeting, and commenting on the proceedings which took place at it. The witness was then directed to hand in the *Pilot* of the 15th of May, and Mr. Bourne read the preliminary description of the proceedings at the "Great Repeal Demonstration of the County of Westmeath," which took place in the town of Mullingar. It is stated that upwards of one hundred thousand persons were present, and described the banners, bands, enthusiasm, &c., called into requisition on the occasion. The speech made by Mr. Barrett at the dinner which took place on the same day, upon the toast of "The People," being given, was also read by Mr. Bourne, as was likewise the speech made on the same occasion by the Right Rev. Dr. Cantwell, on responding to the toast of "The Roman Catholic Clergy of Ireland," with which his own health was associated as

Roman Catholic Bishop of Meath. Dr. Cantwell declared himself devoted with all his energies to the cause of repeal, and congratulated the county on the magnificent demonstration made that day.

The Clerk of the Crown then proceeded, on the suggestion of Mr. M'Donough, to read the conclusion of Mr. O'Connell's speech at Tara, where he called on the people to avoid all Ribbon societies, and stated that one of his objects in continuing the repeal agitation was to preserve the union of Great Britain and Ireland under one monarch. The next paper proved was the *Freeman's Journal* of the 30th of May, from which Mr. O'Connell's speech at the Longford "monster" repeal meeting was read upon behalf of the crown, in which Mr. O'Connell severely commented upon Lord Beaumont's remarks in the House of Lords, condemnatory of the repeal agitation, and particularly of the speech of Dr. Higgins, Roman Catholic Bishop of Ardagh.

At the instance of Mr. Fitzgibbon, the Clerk of the Crown next read the part of the speech made by the chairman (Count Nugent) at the meeting at Longford. The first resolution was proposed by Mr. O'Beirne, and was expressive of loyalty and attachment to the Queen, and admiration of the British constitution.

Their lordships adjourned shortly after five until ten this morning.

The reading of the documentary evidence occupied the court during the entire of the day, and the proceedings were therefore of a less interesting nature than on any previous occasion.

#### TENTH DAY.

Their lordships (including Mr. Justice Burton, who seemed quite convalescent,) took their seats on the bench precisely at ten o'clock.

The traversers and the jury then appeared in their respective places.

The examination of Mr. Vernon, of the Stamp-office, was resumed by Mr. Smyly. The witness first handed in the *Freeman's Journal* of the 4th of April, 1843, from which the Deputy Clerk of the Crown read the proceedings of the Repeal Association at the Corn Exchange on the 3d of April, including Mr. O'Connell's speech, and the observations made by Mr. Steele, who said he appeared there as one of the repeal wardens of London, and presented his august leader with a powerful address from London, the reading of which was received by the meeting with reiterated cheering; also a letter from General Clooney, read by Mr. Ray at the meeting. The *Freeman's Journal* of the 31st of May, was next given in evidence, and at the instance of Mr. O'Hagan and Mr. Close, Mr. O'Connell's speeches at the association were read at length, in the course of which various allusions were made to what he designated "the ruffian soldiery of Great Britain." That part of the hon. and learned traverser's address to the association, with reference to the ill-founded report of the detention of the present Lord Chancellor in a lunatic asylum near Dublin, some time ago, elicited roars of laughter, in which the learned judges joined.

The Deputy Clerk of the Crown next proceeded to read from the same

paper, upon the request of Mr. Close, counsel for the traversers, the report of Mr. O'Connell's speech at the repeal banquet at Longford, and also the report of the Roman Catholic Bishop of Meath's speech, delivered upon the same occasion.

The next paper proved by Mr. Vernon, on Mr. Smyly's examination was the *Pilot*, of the 5th July, from which he read an article headed, "Repeal is Coming," alluding to the affairs of Spain at that time. He also read the report of the weekly meeting of the Repeal Association from the same paper, in which Mr. O'Connell, Mr. John O'Connell, Mr. Steele, and Dr. Gray took part, and handed in money; amongst the sums handed in by Mr. O'Connell, was 100*l.* from America, enclosed in a letter from a Mr. Tobin, and written from Halifax. The appointment of repeal wardens and inspectors was also proved from the same proceedings.

The Clerk of the Crown next read an extract from the *Freeman's Journal* of the 31st of May, of proceedings at the Corn Exchange, wherein Dr. Gray, Mr. John O'Connell, Mr. Ray, and Mr. Steele took a part, by handing in sums of money from different parts of the country. Upon that occasion, in reference to the published report of the proceedings at the Longford meeting—

"Mr. O'Connell said he had to correct a typographical mistake which occurred in the admirable report of the *Freeman's Journal* of the proceedings in Longford. He was made to say this—'No, your sister watched his corpse, but she is herself worse than dead—she is now a sad maniac roaming through the wilds, and, like the wretched maniac of song, warning her sex against the ruffian soldiery of Britain.' He did not call the soldiery of Britain a ruffian soldiery—he would not call them so, because it would be false. They were, on the contrary, an extremely civilized class of men, and he expressed more than once that he never now saw a soldier in the dock charged with any crime. When he was called to the bar, that was not the case; there used to be three, five, and sometimes seven soldiers charged with breaches of the law; but for a number of years it was not so. They never now saw a soldier in the dock, and he would be wronging his judgment if he called them a ruffian soldiery. He also spoke of the serjeants, whom he thought an exceedingly well-informed and well-conducted body of men, and to them the discipline of the entire army fell (hear). If justice were done to them, there was not a company in which one of them ought not to be raised to the rank of an officer. The lines he made use of were the following":—

And now a sad maniac she roams the wild common—  
Against minions of Britain she warns each woman,  
And sings of her father in strains more than human,  
While the tear-drops do fall for poor Ellen O'Moore.

Mr. Smyly next called on Mr. Vernon to produce the *Freeman Journal* of the 23d of August, 1843.

Mr. Vernon produced the paper, and proved that it came from the Stamp-office. He then, at Mr. Smyly's request, read the report of an adjourned meeting of the Loyal National Repeal Association, which was



held on the preceding day, at the Corn Exchange. The report stated that Stephen Murphy, Esq., acted as chairman of the meeting, and that Mr. Ray, the secretary, read the minutes of the last meeting. Mr. Vernon, at Mr. Smyly's request, proceeded to read other parts of the report, which stated that Mr. John O'Connell handed in 5l. 10s. from some subscribers in the country, and that the persons who had subscribed the sum were admitted members of the association; that Dr. Gray handed in half notes for £31. which he received from the county Fermanagh.

Mr. Smyly next called on Mr. Vernon to read Mr. O'Connell's speech contained in the report headed "Business of the Day."

Mr. Vernon read the speech, which chiefly contained the learned gentleman's observations on the monster meeting at Tara, at which, he said, there were certainly one million of persons present, who were so drilled, so schooled, that they observed with regularity the laws of God, and committed no crime or offence against the laws of man. He also in it proclaimed the union to be null and void. He submitted a report styled "The plan for the renewed action of the Irish parliament," and concluded by moving that the report should be adopted, printed, and circulated which motion was put and carried.

Mr. Smyly next called on Mr. Vernon to read the leading article in the same paper, headed "National Manifesto." It was an article commenting on "The Plan" read at the preceding day's meeting, entirely approving of it, and stating that "The Union, though binding as law, was not binding in conscience;" that "the time was arrived when their rulers should know their determination. The country was now organised in its thousands and tens of thousands. The manifesto of yesterday was but the people's voice.

Mr. Smyly having concluded his examination of Mr. Vernon as to this paper,

Mr. Close, on the traversers' side, called on Mr. Vernon to read from the same paper Mr. O'Connell's observations on a letter from a Mr. McKenna, which was read at the meeting.

Mr. Vernon read the observations called for, which were---"Mr. O'Connell in reference to this letter said, he was anxious to correct an error into which the writer of that letter had fallen; in supposing that the *Nation* was the organ of their opinions; there was no paper which was the organ of their opinions nor did the association hold itself responsible for anything that appeared in that paper."

Mr. Smyly next called on Mr. Vernon to produce the *Freeman's Journal* of the 24th of August, which that gentleman produced, and proved that it came from the Stamp-office. He then, at Mr. Smyly's request read a report of an adjourned meeting of the Repeal Association, held on the former day, at which Mr. O'Connell attended, and Mr. Barrett handed in 5l. 11s. subscriptions from the country. Mr. Ray acted as secretary, and read the minutes of the last day's proceedings. Mr. Vernon read another part of the report, stating that Dr. Gray brought forward the report of the sub-committee on the appointment of arbitrators, and his speech in bringing it forward. Mr. Vernon next read Mr. O'Connell's observations on the report, in which he entirely approved of it. The report was adopted by the association, and Mr. O'Connell moved the thanks of the association

to the sub-committee who prepared it. This motion was passed.

Mr. Smyly next called for the *Pilot* of the 10th of March, 1843.

Mr. Vernon produced the paper, and proved that it came from the Stamp-office.

The Deputy Clerk of the Crown read from the paper the leading article headed "Repeal—America," which was a comment upon the speech of the son of Mr. President Tyler on repeal. (The article has been published.)

Mr. M'Donough directed the officer to read from the 4th page of the paper, a report in reference to the painters of Dublin.

The officer then read a report of the housepainters prepared for adoption at a meeting of the body; the proceedings were headed—"Repeal Board of Trade." It appeared from the report that for many years before the union the housepainters shared in the general prosperity of the country, and it was as difficult for employers to get men, as it was now for men to get employment; and 10l. were given to men in winter, to retain them for the ensuing season. The report was signed "Robert Ryan, secretary."

Mr. Vernon next read, by the direction of Mr. Smyly, a poem from the *Nation* of the 1st of April, 1843, entitled, "The Memory of the Dead," (which has already appeared in this work). He then read a report of observations made by Mr. Duffy, which also was published in the *Nation*, on handing in 5l. from Castleblaney, and promising that the patriotic people of that little village would forward 5l. each week.

Mr. Vernon also read from page 388, column three of the *Nation*, a letter addressed by Mr. James Lowry, from Castleblaney, to Mr. Duffy, enclosing 5l. in half bank notes, being subscriptions to the repeal fund; and an article which appeared in page 456 of the same paper, published on the 29th of April, entitled "Something is Coming."

Mr. Vernon, at the request of Mr. Smyly, next read an article from the same paper, headed, "Our Nationality;" also several communications from different parts of Ireland to the Repeal Association.

Mr. Whiteside—Turn to page five, folio 456, and read the song that you will find there.

Mr. Vernon then read as follows, to the apparent amusement of the spectators:—

#### MY BEAUTIFUL, MY OWN.

I have watched in delight the fire that flies  
In the lightning flash of thy dark blue eyes.  
As the sparkled in joyous merriment, caught  
From the passing jest to the brilliant thought—  
My beautiful, My own.

But I've seen a light in them dearer still.  
A softer, diviner radiance, fill  
Their sparkling orbs, was bliss to see:  
'Twas affection's light, and 'twas turned on me—  
My beautiful, my own.

In dread of thy frown, I vainly strove  
 In silence to hide my heart's deep love :  
 But my soul's felt passion thou didst not spurn,  
 And at last even whispered of love's return---  
     My beautiful, my own

Oh, that moment's happiness was worth  
 All other things on this broad earth :  
 And I felt that thenceforward unto me  
 My only heaven could be with thee---  
     My beautiful, my own.

I've played with the curl of thy raven hair,  
 And wished to be one of the tresses there ;  
 To touch for ever that rosy cheek,  
 And catch each accent thy lips should speak ;  
     My beautiful, my own.

For in rapture almost too great I've hung  
 On the low, sweet tones of thy gentle tongue,  
 As they told of thy choice, which could not range,  
 And thy love, which time could never change ;  
     My beautiful, my own.

Did the Poet's mantle to me belong,  
 I would hallow thy beauty in deathless song :  
 In the minstrel's lay should thy name resound,  
 And a halo of glory circle thee round ;  
     My beautiful, my own.

He next read an article from the *Pilot* of the 28th of August, headed "The Battle of Tara ;" likewise a report of a meeting of the Repeal Association, at which Mr. O'Connell moved, "That the committee be requested to make arrangements with the *Pilot* and *Evening Freeman* to publish supplements with the weekly communications."

Mr. Vernon then, pursuant to direction from Mr. Smyly, read a long letter which was published in the *Pilot* newspaper, signed Richard Power, P.P., Kilrossenty, county Waterford, headed and defining what the writer conceived to be "The Duties of a Soldier." The principle advocated by the Rev. gentleman was, that there were bounds to the obedience which a soldier should render to the orders of his commanding officer. As long as these commands were just, he should obey them ; but if a government were depraved enough to enter on a war of plunder against an unarmed and unoffending people, the soldier should die rather than advance a step in such a cause at the bidding of any human being. The letter concluded with an argument to the effect that he who would obey such orders was a coward, and that the really brave man was he who had the courage to brave the consequences of such a virtuous disobedience. The consequence to the poor fellow might be disastrous---he might be shot, but he would

have the sympathy and blessing of all that was good and virtuous on earth  
o console him.

The court adjourned for a short time on the conclusion of the reading of  
this letter.

When the court resumed, Mr. Vernon read from the *Pilot* of the 6th of September, the article headed---“The Irish in the English Army---Mr. O’Callaghan’s Letters.” He also read from the same paper, at the instance of the traversers, Mr. O’Connell’s speech at the Repeal Association, in which he animadverted in strong terms on the conduct of a person named Calian, who, with a large party of men, collected by intimidation 19s. repeal rent, at Camlough, in the county of Armagh. Mr. O’Connell concluded his speech by moving that Callan be dismissed from the association, and that the repeal rent he thus collected be returned to the persons from whom it was received, which motion was carried. The requisition inviting Mr. O’Connell to the Loughrea “Repeal demonstration,” was likewise read on the part of the traversers. An article entitled “The Army, the People, and the Government” was then given in evidence by the crown. Its object was to prove that the army was the army of the people. The witness then read, as evidence for the crown, from the same paper, an article headed, “The rumoured Death of General Jackson,” which has been already published in this paper.

Counsel for the traversers did not require any passages to be read from this publication; and the next proved was the *Pilot* of the 6th of October, in which there appeared an article headed “The Battle of Clontarf,” which was read in evidence.

The *Nation* of the 30th of September having been proved in the usual form to be a copy of Mr. Duffy’s publication, by Mr. Vernon, he proceeded, at Mr. Smyly’s instance, to read an advertisement headed “Repeal Cavalry.” Sums of money handed by Mr. Duffy and other traversers, to the funds of the association, were also read from the same paper.

Mr. Whiteside then called on Mr. Vernon to read a letter which appeared in the *Nation* of the 3d September, page 10.

Mr. Vernon read the letter, which was one copied from the *Wurder*. The writer declined signing the declaration for the “Great Protestant Meeting,” not because he was a repealer, but because he was thoroughly convinced that those who signed it were not the true friends of the throne.

Mr. Smyly next called on Mr. Vernon to produce the *Freeman’s Journal* of the 3d of October, 1843, and read the advertisement headed “Repealers on horseback—Clontarf Meeting.”

Mr. Vernon produced the paper, proved that it was from the Stamp-office, and read the advertisement, which was the same as the one that appeared in the *Nation* alluded to above.

Mr. Smyly called for the *Freeman’s Journal* of the 29th of September 1843.

Mr. Vernon produced the paper, and proved that it came from the Stamp-office; and, at Mr. Smyly’s request, read from it the following paragraph from the report of an adjourned meeting of the Repeal Association:—“The following remittances were handed in by C. G. Duffy, Esq.”

Then followed the names. The total amount 45*l.* 16*s.* Mr. Vernon read the same paragraph from the *Pilot* of the 29th of September.

The Attorney-General then said, that to prevent any mistake that might occur, he would call on the officer to read the titles of the documents he had read and marked, and their lordships would immediately know whether each document had been read or not.

The Clerk of the Crown then read out the titles of the several documents produced in evidence, and marked them.

The reading of the documents having closed,

Charles Hovendon, Inspector of Police, was called, and examined by Mr. Brewster :—I know Dr. Gray (identified him) ; I know Mr. John O'Connell ; I attended at the arbitration court, Blackbrook ; I saw Mr. John O'Connell there ; I have seen that gentleman at the arbitration court ; Dr. Gray was there once ; Mr. John O'Connell was there several times sitting as an arbitrator, and acting as such ; I was there first on the 17th of October ; I did not take any notes ; there was one case the first day.

#### CROSS-EXAMINED BY MR. HATCHELL.

Was not there at the commencement before any one came into the room ; went there about a quarter past eleven o'clock ; there was no obstruction thrown in the way—quite the reverse ; the greatest kindness was shown to persons ; Mr. John O'Connell, Dr. Gray, and others were there ; the arbitrators met in a public reading room ; never heard they sat in that room before.

Before anything was said did not somebody state that the arbitrators had no power to act, nor did they assume any power unless the parties consented ? Yes ; I did not see any fees paid, nor any gentleman pleading there wearing a professional dress ; the persons who wanted to have their differences settled consented to the decision of the arbitrators ; there was no decision while I was there ; the court was adjourned to Kingstown ; I did not go there in the character of a tipstaff, or an officer of the court ; I did not give any persons intimation that I would attend ; I merely walked in and sat down ; I did not see any oaths administered ; heard the parties state the cause of the difference between them ; the case was adjourned to Kingstown ; I did not go to Kingstown.

The Attorney General, at twenty minutes after three o'clock, said—My lord, we close upon the part of the crown.

Mr. Moore, Q.C. (addressing the court)—My lord, Mr. Sheil was to have opened the reply on behalf of Mr. John O'Connell ; he has been unwell, and confined to his bed for the last three or four days with an attack of his side, but he will be able to attend to-morrow morning. Considering the lateness of the hour, and the magnitude of the case, it may not be considered too much indulgence to ask the court to allow the case to stand over till to-morrow morning. It was arranged that Mr. Sheil should commence the reply on behalf of Mr. John O'Connell, and it would be inconvenient to call upon the counsel for the other traversers to open the case.

Chief Justice---It is a very reasonable application.

The case was then adjourned to ten o'clock the following morning.

## ELEVENTH DAY.

The full court sat this morning at precisely ten o'clock. It being publicly known that the case for the crown had terminated, and that the Right Hon. R. L. Shiel, Q.C. and M.P., was to open the case for the defence. When the judges had taken their seats the most death-like silence prevailed, and every eye was turned in the direction of the great orator, and when he rose to address the jury we have never witnessed a more impressive or solemn scene.

The Right Hon. Gentleman then proceeded as follows:—May it please your lordships and gentlemen of the jury, I am counsel for Mr. John O'Connell. The importance of this case is not susceptible of exaggeration, and I do not speak in the language of hyperbole when I say that the attention of the empire is directed to the spot in which we are assembled. How great is the trust reposed in you—how great is the task which I have undertaken to perform? Conscious of its magnitude, I have risen to address you, not unmoved, but undismayed; no—not unmoved—for at this moment how many incidents of my own political life come back upon me, when I look upon my great political benefactor, my deliverer, and my friend; but of the emotion by which I acknowledge myself to be profoundly stirred, although I will not permit myself to be subdued by it, solicitude forms no part. I have great reliance upon you—upon the ascendancy of principle over prejudice in your minds; and I am not entirely without reliance upon myself. I do not speak in the language of vain-glorious self-complacency when I say this. I know that I am surrounded by men infinitely superior to me in every forensic, and in almost every intellectual qualification. My confidence is derived, not from any overweening estimate of my own faculties, but from a thorough conviction of the innocence of my client. I know, and I appear in some sort not only as an advocate but a witness before you, I know him to be innocent of the misdeeds laid to his charge. The same blood flows through their veins—the same feelings circulate through their hearts:—the son and the father are in all political regards the same, and with the father I have toiled in no dishonourable companionship for more than half my life in that great work, which it is his chief praise that it was conceived in the spirit of peace—that in the spirit of peace it was carried out—and that in the spirit of peace it was brought by him to its glorious consummation.

I am acquainted with every feature of his character, with his thoughts, hopes, fears, aspirations. I have, if I may venture to say, a full cognizance of every pulsation of his heart. I know, I am sure as that I am a living man, that from the sanguinary misdeeds imputed to him, he shrinks with abhorrence. It is this persuasion, profound, impassioned, and I trust that it will prove contagious, which will sustain me in the midst of the exhaustion incidental to this lengthened trial; will enable me to overcome the illness under which I am at this moment labouring; will raise me to the height of this great argument, and lift me to a level with the lofty topics which I shall have occasion to treat in resisting a prosecution, to which in the annals of criminal jurisprudence in this country no parallel can be found. Gentlemen, the Attorney-General, in a statement of eleven or twelve hours' duration, read a long series of extracts from speeches and

publications, extending over a period of nearly nine months. At the termination of every passage which was cited by him, he gave utterance to expressions of strong resentment against the men by whom sentiments so noxious were circulated, in language so envenomed. If, gentlemen of the jury, his anger was not stimulated; if his indignation was not merely official; if he spoke as he felt, how does it come to pass that no single step was ever taken by him for the purpose of arresting the progress of an evil represented by him to be so calamitous.

He told you that the country was traversed by incendiaries who set fire to the passions of the people; the whole fabric of society, according to the Attorney General, for the last nine months has been in a blaze; wherefore then did he stand with folded arms to gaze at the conflagration? Where were the castle fire-engines; where was the indictment; and *ex-officio* information, what had become? Is there not too much reason to think that a project was formed, or rather that a plot was concocted, to decoy and ensnare the traversers, and that a connivance, amounting almost to sanction, was deliberately adopted as a part of the policy of the government, in order to betray the traversers into indiscretions of which advantage was in due time to be taken? I have heard it said that it was criminal to tell the people to "bide their time;" but is the government to "bide its time" in order to turn popular excitement to useful official account? The public prosecutor who gives an indirect encouragement to agitation, in order that he may afterwards more effectually fall upon it, bears some moral affinity to the informer, who provokes the crime from whose denunciation his ignominious livelihood is derived. Has the Attorney General adopted a course worthy of his great office; worthy the ostensible head of the Irish bar, and the representative of its intellect in the House of Commons? (a laugh.)

Is it befitting that the successor of Saurin, and of Plunket, who should "keep watch and ward" from his high station over the public safety, should descend to the performance of functions worthy only of a commissary of the French police; and in place of being the sentinel, should become the "Artful Dodger" of the state? But what, you may ask, could be the motive of the right hon. gentleman for pursuing the course he has adopted, and for which no explanation has been attempted by him? He could not have obtained any advantage signally serviceable to his party by prosecuting Mr. Barrett, or Mr. Duffy, or Dr. Gray, for strong articles in their newspapers; or by prosecuting Mr. Steele, or Mr. Tierney, for attending unlawful assemblies. He did not fish with lines, if I may avail myself of an illustration derived from the habits of my constituents at Dungarvan, but cast a wide and nicely constructed trammel-net, in order that by a kind of miraculous catch he might take the great agitator-leviathan himself—a member of parliament, Tom Steele, three editors of newspapers, and a pair of priests in one stupendous haul together. But there was another object still more important to be gained. Had the Attorney General prosecuted individuals for the use of violent language, or for attending unlawful meetings, each individual would have been held responsible for his own acts; but in a prosecution for conspiracy, which is open to every one of the objections applicable to constructive treason, the acts and the speeches of one man are given in

evidence against another, although the latter may have been at the distance of a hundred miles when the circumstances used against him as evidence, and of which he had no sort of cognizance, took place.

By prosecuting Mr. O'Connell for a conspiracy, the Attorney General treats him exactly as if he were the editor of the *Freeman*, the editor of the *Nation*, and the editor of the *Pilot* newspapers. Indeed, if five or six other editors of newspapers in the country, had been joined as traversers, for every line in their newspapers Mr. O'Connell would be held responsible. There is one English gentleman, I believe, upon that jury. If a prosecution for conspiracy were instituted against the Anti-Corn League in England, would he not think it very hard indeed that Mr. Cobden and Mr. Bright should be held answerable for every article in the *Chronicle*, in the *Globe*, and in the *Sun*? How large a portion of the case of the crown depends upon this implication of Mr. O'Connell with three Dublin newspapers? He is accused of conspiring with men who certainly never conspired with each other. For those who know anything of newspapers are aware that they are mercantile speculations—the property in them held by shares; and that the very circumstance of their being engaged in the same politics alienates the proprietors from each other. They pay their addresses to the same mistress, and cordially detest each other.

I remember to have heard Mr. Barnes, the celebrated editor of the *Times* newspaper, once ask Mr. Rogers what manner of man was a Mr. Tomkins; to which Mr. Rogers replied, "he was a dull dog, who read the *Morning Herald*." Let us turn for a moment from the repeal to the anti-repeal party. You would smile, I think, at the suggestion that Mr. Murray Mansfield and Mr. Remmy Sheehan should enter into a conspiracy together. Those gentlemen would be themselves astonished at the imputation. Suppose them to be members of the Conservative Society. Would that circumstance be sufficient to sustain, in the judgment of men of plain sense, the charge of conspiracy upon them? Gentlemen, the relation in which Mr. Duffy, Mr. Barrett, and Dr. Gray stood to the Repeal Association, is exactly the same as that in which Mr. Staunton, the proprietor of the *Weekly Register*, stood towards the Catholic Association. He was paid for his advertisements, and his newspaper contained emancipation news, and was sent to those who desired to receive it. Mr. Staunton is now a member of the Repeal Association; he will tell you that his connection with that body is precisely of the same character as that which existed with the celebrated body to which I have referred; he will prove to you that over his paper Mr. O'Connell exercises no sort of control, and that all that is done by him in reference to his paper, is the result of his own free and unbiassed will.

The speeches made at the association and public meetings were reported by him in the same manner as in the other public journals; he is not a conspirator; the government have not treated him as such. Why? Because there was no poems in his paper like "The Memory of the Dead," which, although in direct opposition to the feelings of Mr. O'Connell, and which he had frequently expressed, is now used in evidence against him. Gentlemen, I have said enough to you to show how formidable is this doctrine of conspiracy---of legal conspiracy---which is so far removed from all notions of actual conspiracy, to show you further how cautious you



ought to be in finding eight of your fellow-citizens guilty of that charge. The defendants are indicted for conspiracy, and for nothing else. No counts are inserted for attending unlawful assemblies. The Attorney General wants a conviction for conspiracy, and nothing else. He has deviated in these particulars from English usage---in indictments for a conspiracy, counts for attending unlawful assemblies are in England uniformly introduced. English juries have almost uniformly manifested an aversion to find men guilty of a conspiracy. Take Henry Hunt's case as an example. When that case was tried England was in a perilous condition. It had been proved before a secret committee of the House of Commons, of which the present Earl of Derby, the father of Lord Stanley, was the chairman, that large bodies of men were disciplined at night in the neighbourhood of Manchester, and made familiar with the use of arms. An extensive organization existed. Vast public assemblies were held, accompanied with every revolutionary incident in furtherance of a revolutionary object---yet, an English jury would not find Henry Hunt guilty of a conspiracy, but found him guilty on the fourth count of the indictment, for attending an unlawful assembly. Some of the Chartists were not found guilty of a conspiracy, but were found guilty upon counts from which the word "conspiracy" is left out.

Gentlemen, the promises of Mr. Pitt, when the union was carried, have not been fulfilled; the prospects presented by him in his magnificent declamation have not been realised; but if in so many other regards we have sustained a most grievous disappointment; if English capital has not adventured here; if Englishmen have preferred sinking their fortunes in the rocks of Mexico rather than embark them in speculations connected with this fine but unfortunate country; yet, from the union, let one advantage be at all events derived. Let English feelings, let English principles, let English love of justice, let English horror of oppression, let English detestation of foul play, let English loathing of constructive crime find its way amongst us! but thank God, it is not to England that I am driven, exclusively to refer for a salutary example of the aversion of twelve honest men to prosecutions for conspiracy. You remember the prosecution of Forbes, and of Handwich, and other orangemen of an inferior class, under Lord Wellesley's administration; they were guilty of a riot in the Theatre, but they were charged with having entered into a great political confederacy to upset Lord Wellesley's government, and to associate him with the "exports of Ireland." The Protestant feeling of Ireland arose; addresses were poured in from almost every district in the country, remonstrating against a proceeding which was represented as hostile to the liberties of the country, and as a great stretch of the prerogative of the crown. The jury did their duty, and refused to convict the traversers. The Irish Catholics at the time, heated by feelings of partizanship, were rash enough to wish for a conviction. Fatal mistake; A precedent would have been created, which would soon have been converted into practice against themselves.

Gentlemen, we are living in times of strange political vicissitude. God forbid that I should ever live to see the time, (for I hate to see ascendancy of every kind), God forbid that I should ever live to see the time, for that our children should ever live to see the time, when there shall be arrayed four Catholic judges at a trial at bar upon

that bench, when the entire of the government bar who shall be engaged in a public prosecution shall be Roman Catholic; and when a Catholic crown solicitor shall strike eleven Protestants from the special jury list, and leave twelve Roman Catholics in that box. I re-assert it, and exclaim again, in all the sincerity of my heart, that I pray that such a spectacle never shall be exhibited in this the first criminal court in the land. I know full well their irrepressible tendency of power to abuse. We have witnessed strange things, and strange things we may yet behold. It is the duty, the solemn duty—it is the interest, the paramount interest—of every one of us, before and above everything else, to secure the great foundations of liberty, in which we all have an equal concern, from invasion, and to guard against the creation of a precedent which may enable some future attorney general to convert the Queen's Bench into a star-chamber, and commit a further inroad upon the principles of the constitution. Gentlemen, it is my intention to show you that my client is not guilty of any of the conspiracies charged in the indictment; and in doing so I shall have occasion to advert to the several proceedings that have been adopted by the government, and to the evidence that has been laid before you. But before I proceed to that head of the division which I have traced out for myself, I shall show you what the object of my client really was. I shall show you that that object was a legal one, and that it was by legal means that he endeavoured to obtain it.

The Attorney General, in a speech of considerable length; but not longer than the greatness of the occasion amply justified; adverted to a great number of diversified topics, quoted the speeches of Sir Robert Peel and of Lord John Russell; adverted to the report of the secret committee of the House of Lords in 1797, and referred to the great era of Irish parliamentary independence, of 1782. That he should have been so multifarious and discursive, I do not complain. In a case of this incalculable importance, we should look for light wherever it can be found. I shall go somewhat farther than the year 1782; but do not imagine that I mean to enter into any lengthened narrative or elaborate expatiation. Long tracts of time may be swiftly traversed. I do not think that any writer has given a more accurate, or more interesting account of the first struggle of Ireland for the assertion of her rights than Sir Walter Scott. He was a Tory. He was bred and born in some disrelish for Ireland; but when he came amongst us, his opinions underwent a material alteration. The man who could speak of Scotland in those noble lines, which were cited in the course of this trial, with so much passionate attachment, made a just allowance for those who felt for the land of their birth the same just emotion. In his life of Swift, he says Molyneux, the friend of Locke and of liberty, published in 1693, "The case of Ireland being bound by acts of parliament in England, stated," in which he showed with great force, that the "right of legislation, of which England made so oppressive a use, was "neither justifiable by the plea of conquest, purchase, or precedent, and "was only submitted to from incapacity of effectual resistance. The temper of the English House of commons did not brook these remonstrances. "It was unanimously voted that these bold and pernicious assertions were "calculated to shake the subordination and dependence of Ireland, as "united and annexed for ever to the crown of England, and the vote of

"the house was followed by an address to the Queen, complaining that although the woollen trade was the staple manufacture of England, over which her legislation was accustomed to watch with the utmost care, yet Ireland, which was dependent upon and protected by England, not contented with the linen manufacture, the liberty whereof was indulged to her, presumed also to apply her credit and capital to the weaving of her own wool and woollen cloths, to the great detriment of England. Not a voice was raised in the British House of Commons to contradict maxims equally impolitic and tyrannical. In acting upon these commercial restrictions, wrong was heaped upon wrong, and insult was added to injury---with this advantage on the side to the aggressor, that they could intimidate the people of Ireland into silence by raising, to drown every complaint, the cry of 'rebel' and 'Jacobite.'"

When Swift came to Ireland in 1714, he at first devoted himself to literary occupations; but at length his indignation was aroused by the monstrous wrongs which were inflicted upon his country. He was so excited by the injustice which he abhorred, that he could not forbear from exclaiming to his friend Delany, "Do not the villains of men eat into your flesh?" In 1820 he published a proposal for the use of Irish manufacture, and was charged with having endeavoured to create hostility between different classes of his Majesty's subjects, one of the charges preferred in this indictment. At that time the judges were dependent upon the crown. They did not possess that "fixity of tenure" which is a security for their public virtue. They are now no longer, thank God, "tenants at will." They may be mistaken; they may be blinded; but corrupt they cannot be. The circumstances detailed in the following passage in the life of Swift could not by possibility occur in modern times: "The storm which Swift had driven was not long in bursting. It was intimated to Lord Chief Justice Whitshed by a person in great office; (this, if I remember right, was the expression used by Mr. Ross, in reference to a great unknown, who sent him here) "that Swift's pamphlet was published for the purpose of setting the two kingdoms at variance; and it was recommended that the printer should be prosecuted with the uttermost rigour. Whitshed was not a person to neglect such a hint and the arguments of government were so successful that the grand jury of the county and city presented the dean's pamphlet as a seditious, factious, and virulent libel. Waters, the printer, was seized and forced to give great bail; but upon his trial, the jury, though some pains had been bestowed in selecting them, brought him in not guilty; and it was not until they were worn out by the Lord Chief Justice, who detained them eleven hours, and sent them nine times to consider their verdict, that they, at length, reluctantly left the matter in his hands, by a special verdict; but the measures of Whitshed were too violent to be of service to the government; men's minds revolted against his iniquitous conduct. Sir Walter Scott then proceeds to give an account of the famous Draper's letters. After speaking of the first three, Sir Walter Scott says, "It was now obvious, from the temper of Ireland, that the true point of difference between the two countries might safely be brought before the public." In the Draper's fourth letter, accordingly, Swift boldly treated of the royal prerogative, of the almost exclusive em-

ployment of natives of England, in places of trust and emolument in Ireland; of the dependence of that kingdom upon England, and the power assumed, contrary to truth, reason, and justice, of binding her by the laws of a parliament in which she had no representation. And, gentlemen, is it a question too bold of me to ask, whether if Ireland have no effective representation---If the wishes and feelings of the representatives of Ireland upon Irish questions are held to be of no account---if the Irish representation is utterly merged in the English, and the minister does not, by a judicious policy, endeavour to counteract it---as he might, in the opinion of many men, effectually do---is not the practical result exactly the same as if Ireland had not a single representative in parliament? Gentlemen, Swift addressed the people of Ireland upon this great topic, in language as strong as any that Daniel O'Connell has employed. "The remedy," he says, "is wholly in your own hands. \* \* \* By the laws of God, of nations, and of your country, you are, and ought to be, as free a people as your brethren in England. "This tract," says Sir Walter Scott, "pressed at once upon the real merits of the question at issue, and the alarm was instantly taken by the English government, the necessity of supporting whose domination devolved upon Carteret, who was just landed, and accordingly a proclamation was issued offering 300*l.* reward for the discovery of the author of the Draper's fourth letter, described as a wicked and malicious pamphlet, containing several seditious and scandalous passages, highly reflecting upon his Majesty and his ministers, and tending to alienate the affections of his good subjects in England and Ireland from each other." Sir Walter, after mentioning one or two interesting anecdotes, says---"When the bill against the printer of the Draper's letters was to be presented to the grand jury, Swift addressed to that body a paper entitled 'Seasonable advice,' exhorting them to remember the story of the *Leyone* mode by which the wolves were placed with the sheep on condition of parting with their shepards and mastiffs, after which they ravaged the flock at pleasure. A few spirited verses, addressed to the citizens at large, and enforcing similar topics, are subscribed by the Draper's initials, and are doubtless Swift's own composition, alluding to the charge that he had gone too far in leaving the discussion of Wood's project to treat of the alleged dependence of Ireland. He concludes in these lines---

- If, then, oppression has not quite subdued  
At once your prudence and your gratitude---  
If you yourselves conspire not your undoing---  
And don't deserve, and won't bring down your ruin---  
If yet to virtue you have some pretence---  
If yet you are not lost to common sense  
Assist your patriots in your own defence;  
That stupid cant, "he went to far," despise,  
And know that to be brave is to be wise;  
Think how he struggled for your liberty,  
And give him freedom while yourselves are free.

At the same time was circulated the memorable and apt quotation from Scripture by a Quaker (I don't know, gentlemen, whether his name was

Robinson, but it ought to have been) :—" And the people said unto Saul, shall Jonathan die who hath wrought thy great salvation in Israel. God forbid ! As the Lord liveth there shall not one hair of his head fall to the ground, for he hath wrought with God this day ; so the people rescued Jonathan, and he died not." Thus admonished by verse, law, and Scripture, the grand jury assembled. It was in vain that the Lord Chief Justice Whitshed, who had denounced the dean's for tract as seditious, and procured a verdict against the prisoner, exerted himself upon a similar occasion. The hour for intimidation was past. Sir Walter Scott, after detailing instances of the violence of Whitshed, and describing the rest of the dean's letters, says—" Thus victoriously terminated the first grand struggle for the independence of Ireland. The eyes of the kingdom were now moved with one consent upon the man by whose unbending fortitude and pre-eminent talent this triumph was accomplished. The Draper's head became a sign ; his portrait was engraved, worn upon handkerchiefs, struck upon medals, and displayed in every possible manner, as the Liberator of Ireland. Well might that epithet ' grand' be applied to the first great struggle of the people of Ireland by that immortal Scotchman, who was himself so " grand of soul," and who of mental loftiness, as well as of the magnificence of external nature, had a perception so fine, and well might our own Grattan, who was so great and so good, in referring to his own achievement in 1782, address to the spirit of Swift and to the spirit of Molyneux his enthusiastic invocation,—and may not I, in such a cause as this, without irreverence, offer up my prayer, that of the spirit by which the soul of Henry Grattan was itself inflamed, every remnant in the bosoms of my countrymen may not be extinguished. A prosecution was not instituted against the great conspirators of 1782. The English minister had been taught in the struggles between England and her colonies a lesson from adversity, that school-mistress, the only one from whom ministers ever learn anything—who charges so much blood, so much gold, and such torrents of tears, for her instructions. In reading the history of that time, and in tracing the gradual descent of England from the tone of despotic dictation to the reluctant acknowledgment of disaster, and to the ignominious confession of defeat, how many painful considerations are presented to us ! If in time ---if the English minister in time had listened to the eloquent warnings of Chatham, or to the still more oracular admonitions of Edmund Burke, what a world of woe would have been avoided ! By some fatality, England was first demented, and then lost. Her repentance followed her perdition. The colonies were lost ; but Ireland was saved by the timely recognition of the great principle on which her independence was founded. No Attorney General was found bold enough to prosecute Flood and Grattan for a conspiracy. With what scorn would twelve Irishmen have repudiated the presumptuous functionary by whom such an enterprise should have been attempted. Irishmen then felt that they had a country ; they acted under the influence of that instinct of nationality, which for his providential purposes, the author of nature has implanted in us. We were then a nation, we were not broken into fragments by those dissensions by which we are at once enfeebled and degraded. If we were eight millions of Protestants (and, Heaven forgive me, there are

moments when, looking at the wrongs done by my country, I have been betrayed into the guilty desire that we all were); but, if we were eight millions of Protestants, should we be used as we are? Should we see every office of dignity and emolument in this country filled by the natives of the sister island? Should we see the just expenditure requisite for the improvement of the country denied? Should we see the quit and crown rents of Ireland applied to the improvement of Charing-cross or of Windsor Castle? Should we submit to the odious distinctions between Englishmen and Irishmen introduced into almost every act of legislation? Should we bear with an arms' bill, by which the bill of rights is set as nought? Should we brook the misapplication of a poor law? Should we allow the parliament to proceed as if we had not a voice in the legislature? Should we submit to our present inadequate representation? Should we allow a new tariff to be introduced, without giving us the slightest equivalent for the manifest loss we have sustained? And should we not peremptorily require that the imperial parliament should hold a periodical sessions for the transaction of Irish business in the metropolis of a powerful, and, as it then would be, an undivided country? But we are prevented by our wretched religious distinctions from co-operating for a single object, by which the honour and substantial interests of our country can be promoted. Fatal, disastrous, detestable distinction! Detestable, because they are not only repugnant to the genuine spirit of Christianity, and substitute for the charities of religion the rancorous antipathies of sect; but because they practically reduce us to a colonial dependency, make the union a name, substitute for a real union a tie of parchment, which an event might under—convert a nation into an appurtenance, make us the footstool of the minister, the scorn of England, and the commiseration of the world. Ireland is the only country in Europe in which abominable distinctions between Protestant and Catholic are permitted to continue. In Germany, where Luther translated the Scriptures; in France, where Calvin wrote the Institutes; aye, in the land of the Dragonados and the St. Bartholomews; in the land from whence the forefathers of one of the judicial functionaries of this court, and the first ministerial officer of the court, were barbarously driven—the mutual wrongs done by Catholic and Protestant are forgiven and forgotten, while we, madmen that we are, arrayed by this fell fanaticism which, driven from every other country in Europe, has found a refuge here, precipitate ourselves upon each other in those encounters of sectarian ferocity in which our country, bleeding and lacerated, is trodden under foot. We convert the island that ought to be one of the most fortunate in the sea into a receptacle of degradation and of suffering; counteract the design of Providence, and enter into a conspiracy for the frustration of the beneficent designs of God (great applause and clapping of hands in court).

Chief Justice—If public feeling is exhibited again in this manner, or if the proceedings of the court are again interrupted, I must order the galleries to be cleared. (Addressing Mr. Sheil) I am sure, Mr. Sheil, you do not wish it yourself.

Mr. Sheil—There is nothing I deprecate more, my lord; for it is not by such means that the minds of the jury are to be convinced.

The Chief Justice—Certainly not.

Mr. Sheil---I am much obliged to your lordship for interrupting me, as it has given me a few moment's rest.

The Chief Justice---Whenever you feel exhausted, sit down and rest.

The Right Honourable Gentleman thanked his lordship and resumed his address. It is indisputable that Ireland made a progress marvellously rapid in the career of improvement which freedom had thrown open to her, she ran so fast that England was afraid of her being overtaken. Mr. Pitt and Mr. Dundas concurred in stating that no country had ever advanced with more rapidity than Ireland. Her commerce and manufactures doubled; the plough climbed to the top of the mountain, and found its way into the centre of the morass. This city grew into one of the noblest capitals in the world; wealth, and rank, and genius, and eloquence, and every intellectual accomplishment, and all the attributes by which men's minds are exalted, refined and embellished, were gathered here. The memorials of our prosperity remain. Of that prosperity architecture has left us its magnificent attestation. This temple, dedicated to Justice, stands among the witnesses, silent and solemn, of the glory of Ireland, to which I may appeal. It is seen from afar off. It rises high above the smoke and din of this populous city; be it the type of that moral elevation, over every contaminating influence, to which every man who is engaged in the sacred administration of Justice ought to ascend. The penal laws were enacted by slaves and relaxed by freemen. The Protestants of Ireland had been contended to kneel to England upon the Catholic's neck. They rose to a nobler attitude, and we were permitted to get up. In 1782 the Protestants of Ireland who had acquired political rights, communicated civil privileges to their fellow-subjects. In 1793 they granted us the elective franchise—a word of illustrious etymology. There can be no doubt that the final adjustment of the Catholic question upon terms satisfactory to both parties would have been effected, and without putting the country to that process of fearful agitation through which it had passed, if the rebellion of 1798, so repeatedly, and with a sincerity so unaffected, denounced by Mr. O'Connell, had not marred the hopes of the country and essentially contributed to the Union. Mr. Pitt borrowed his plan of the Union from that great soldier to whom the gentry of this country are under obligations so essential. It must be acknowledged, however, that they make up by the fervour of their loyalty for the republican origin of their estates. Oliver Cromwell first devised the Union. He returned 400 members for England, 30 for Scotland, and as many for this country; a report of the debates in that singular assembly was preserved by Thomas Burton, who kept a diary, and is stated in that book which I hold in my hand to have been a member in the parliaments of Oliver and Richard Cromwell, from 1656 to 1659. It was published a few years ago from a MS. in the British Museum. The members from Ireland were English soldiers, who had acquired estates in Ireland. You would suppose that they were cordially welcomed by their English associates, for they were Englishmen, bred and born; and they had very materially contributed to the tranquillization of Ireland. I hope I use the most delicate and least offensive term. I acknowledged that I had anticipated as much before I read the book. What was my surprise when I found that these deputies from Ireland were considered to be in some sort

contaminated by the air which they had breathed in this country, and that they were most uncourtously treated by the English members. A gentleman whose name ought to have been Copley, says, "These men are foreigners." The following is the speech:—"Mr. Gewan said, it is not for the honour of the English nation for foreigners to come and have power in this nation. They are but provinces at best." Doctor Clarges says, on behalf of Ireland, page 114, 'They (the Irish) were united with you, and have always had an equal right with you. He that was King of England was King of Ireland or lord. If you give not a right to sit here, you must in justice let them have a parliament at home. How safe that will be, I question. Those that sit for them are not Irish teagues; but faithful persons.' Mr. Gewan again observes—"It were better both for England and Ireland that they had parliaments of their own. It is neither safe, just, nor honourable to admit them. Let them rather have a parliament of their own." Mr. Antie observes—"If you speak as to the convenience in relation to England, much more is to be said why those who serve for Scotland should sit here. It is one continent, and elections are easier determined; but Ireland differs. It is much fitter for them to have parliaments of their own. That was the old constitution; it will be difficult to change it, and dangerous for Ireland. They are under an impossibility of redress. . . . Their grievances can never be redressed. Elections can never be intermixed. Though they were but a province, there were courts of justices and parliaments as free as as here, \* \* \* I pray that they may have soon to hear their grievances in their own nation, seeing that they cannot have them heard here." Sir Thomas Stanley observes:—"I am not to speak for Ireland, but for the English in Ireland. \* \* \* The members for Ireland and the electors are all Englishmen, who naturally claim to have votes in making laws by which they must be governed; they fought your battles, obtained and preserved your interest, designed your famous long parliament, obtained by blood, and sought for by prayer solemnly." You may ask of me, wherefore is it I make these references? I answer, because the institutions of a country may change; the government may, in its form, undergo essential modifications; but the basis of the national character, like its language, remains the same, and to this very day there prevails in the feelings of Englishmen towards this country what I have ventured to call elsewhere, the instinct of domination. Towards the Protestants of Ireland, when the Papists were ground to powder, the very same feelings prevailed, of which we see manifestations to this hour. The question is not one between Catholic and Protestant; but the question is between the greater country and the smaller, which the greater country endeavours to keep under an ignominious control. The union was carried by corruption and by fear. The shrieks of the rebellion still echoed in the nation's ear. The *habeas corpus* act was suspended, and martial law had been proclaimed. The country was in a state of siege—the minister had a rod of steel for the people, and a purse of countless gold for the senator. But in the midst of that parliamentary profligacy, at which even Sir Robert Walpole would have been astonished, the genius of the country remained incorruptible—Grattan, Curran, and the rest of those famous men, whose names cast so bright a law upon this, the brightest part of our



history, never for a moment yielded to a sordid or ignoble impulse. All the distinguished men of the bar were faithful to their country. Sir Jonah Barrington, in his history of the Rise and Fall of the Irish nation, has quoted the speeches of the most eminent men of our profession; amongst which those of Mr. Goold, who argued the question of right with equal eloquence and subtlety. Mr. Joy, Mr. Plunket, Mr. Bushe, and Mr. Saurin, are conspicuous. Lord Plunket denied the right of parliament to destroy itself. Mr. Saurin appealed to the authority of Mr. Locke. The same course was taken by Mr. Bushe, whom we have lost so lately—Bushe, whom it was impossible for those by whom the noblest eloquence was justly prized not to admire—whom it was impossible for those by whom the purest worth was justly estimated not to reverence; and whom it was impossible for those by whom a most generous and exalted nature could be appreciated, not to love. The Attorney-General has stated that the opinions of these eminent persons, delivered at the time of the Union, ought to be held in no account. What reason did he give for not attaching any value to the authority of Mr. Saurin? He said Mr. Saurin expressed his opinions in mere debate. So that the most important principles solemnly laid down in parliamentary debate are to be regarded as little better than mere forensic asseveration. I can now account for some speeches which I heard in the House of Commons regarding the education question. I think, however, that such doctrines be propounded in the House of Commons itself, they would be listened to with surprise. You have heard, gentlemen, in the course of this trial, something of the morality of war, and also something of the morality of which the right honorable gentleman was pleased to substitute as a synonyme for war; but of the morality of parliament, I trust you will not form an estimate from the specimen presented to you by her Majesty's Attorney General. But these opinions, Mr. Attorney General observed, were expressed before the act of parliament was passed. Surely the truth of great principles does not depend upon an act of parliament. They are not for an age, but for all time. They are immutable and imperishable. They are immortal as the mind of man, incapable of decomposition or decay. The question before you is not whether these principles are well or ill founded, but you must take the fact of their having been inculcated into your consideration, where you have to determine the intent of the men upon whose motives to have to adjudicate. The great authority to which the traversers appeal gives them a right to a political toleration upon your part, and should induce you to think that even if they were led astray, they were led astray by the authority of men with whom surely it is no discredit to coincide. But whatever we may think of the abstract validity of the union, you must bear in mind that Mr. O'Connell has again and again stated that the union being law, must, as long as it remains law, be submitted to; and all his positions regarding the validity of the union have no other object than the constitutional incitement of the people to adopt the most effectual means through which the law itself may be repealed or modified. The union was a bargain and sale—as a sale, it was profligate, and the bargain was a bad one—for better terms might be obtained, and may be still obtained, if you do not become the auxiliaries of the Attorney General. Two-thirds of the Irish parliament were suppressed. Not a

single English member was abstracted, and there can be no doubt we stood immediately after the Union in such a relation towards the English members, that we became completely nullified in the House of Commons. But, gentlemen, one could perhaps be reconciled to the terms of the Union, bad as they were, if the results of the Union had been beneficial to this country. We are told by some that our manufactures and our agricultural produce has greatly augmented; but what is the condition of the great bulk of the people of the country, which is, after all, the considerations which, with Christian statesmen, ought to weigh the most. The greater happiness of the greater number is a Benthamite antithesis; but there is a great deal of Christianity condensed in it. When travellers from France, from Germany, from America, arrive in this country, and contemplate the frightful spectacle presented by the misery of the people, although previously prepared by descriptions of the national misery, they stand aghast at what they see, but what they could not have imagined. Why is this? If we look at other countries, and find the people in a miserable condition, we attribute the fault to the government. Are we in Ireland to attribute it to the soil, to the climate, or to some evil genius who exercises a sinister influence over our destinies? The fault, as it appears to me, is entirely in that system of policy which has been pursued by the imperial parliament, and for which the Union is to be condemned. Let me see, gentlemen, whether I can make out my case. I shall go through the leading facts with great celerity; but in such a case as this I should not apprehend the imputation of being wantonly prolix. Your time is, indeed, most valuable, but the interests at stake are inestimably precious; and the time will be scarce noted by you when you bear in mind that the effect of your verdict will be felt when generations have passed away—when every heart that now throbs in this great assembly shall have ceased to palpitate—when the contentions by which we were once agitated shall touch us no further; and all of us, Catholic and Protestant, Whig and Tory, Radical and Repealer, and Conservative, shall have been gathered where all at last lie down in peace together. The first measures adopted in the imperial parliament were a continuation of martial law, and an extended suspension of the *habeas corpus* act. Mr. Pitt was honestly anxious to carry Catholic emancipation, and to make at the same time a provision for the Roman Catholic clergy. You may—some of you may—perhaps, think that Catholic emancipation ought to have been carried; but if it was to be carried, how much wiser would it have been to have settled it forty four years ago, and without putting the country through that ordeal of excitement through which the imperial parliament, by the procrastination of justice, forced it to pass. Mr. Pitt, by transferring the Catholic question from the Irish to the imperial parliament, destroyed his own administration, and furnished a proof that, in place of being able to place Ireland under the protection of his great genius, he placed her under the control of the strong religious prejudices of the English people. Mr. Pitt returned to the first place in the ministry without, however, being able to make any stipulations for the fulfilment of his own engagements, or the realization of the policy which he felt to be indispensable for the peace of Ireland. The Roman Catholic question was brought forward in 1805, and was lost in an imperial House of

Commons. Mr. Pitt died at the battle of Austerlitz, and was succeeded by the Whigs. They proposed a measure, which the Tories, who drove them out on the "No Popery" cry, carried in 1816, and then introduced the new doctrine, that the usefulness of public measures is to be tried far less by the principles on which they were founded, than by the parties by whom they were accomplished. The expulsion of the Whigs from office in 1806, may, in your judgment, have been a fortunate proceeding; but fortunate or unfortunate, it furnishes another proof that the government of Ireland has been made over, not so much to the parliament as to the great mass of the people by whom that parliament is held under control. The Tories found in the portfolio of the Whigs two measures—a draft-bill for Catholic Emancipation, which the Duke of Wellington, then Sir Arthur Wellesley, the secretary for Ireland, flung into fire; and an arms bill, to which clauses have been recently added, which even Mr. Shaw declared "wantonly severe." You may conceive that an arms bill, with all its molestations, may be required; but it is beyond question that, in the year 1819, when England was on the verge of a rebellion, no such bill was ever propounded by the British ministry; and granting, for a moment, for the sake of argument, that some such bill is requisite, how scandalously must a country have been governed for almost half a century, if this outrage upon the bill of rights be required!—Having passed the arms bill and the insurrection act, its appropriate adjunct, the imperial parliament proceeded to reduce the allowance to Maynooth. There is but one opinion regarding Maynooth—that it should be totally suppressed, or largely and munificently endowed, and that an education should be given to the Roman Catholic clergy such as a body exercising such vast influence ought to receive; there are some who think that it were better that the Clergy were educated in France. I do not wish to see a Gallo-Hibernian church in Ireland. Parisian manners may be acquired at the cost of Irish morality, and I own that I am too much attached to my sovereign, and to the connection of my country with England, to desire that conductors of French ambition, that instruments of French enterprise, that agents of French intrigue, should be located in every parochial subdivision of the country. State to an English Conservative the importance of opening a career for intellectual exertion, by holding out prizes to genius at Maynooth, and he will say, it is all true. But the English government are unable to carry the measure. Why? Because the religious objections of the people of England are in the way. Another of the results of the legislative union, in 1810, a decade since the union had elapsed; the country was in a miserable condition—its destitution, its degradation, were universally felt, and by none more than the Protestants of Dublin. A requisition was addressed to the high sheriff of the city, signed by men of the greatest weight and consideration amongst us. A meeting was called; Sir James Riddle was in the chair. At that meeting Mr. O'Connell attended. He had in 1800 made his first speech against the union, and in 1810 he came forward to denounce that measure. The speech delivered by him on that occasion was precisely similar to those numerous and most powerful harangues which have been read to you. He is represented in 1844 by her Majesty's Attorney General as influenced

by the most guilty and the most unworthy motives. The people are to be arrayed, in order that at a signal they may rise, and that a sanguinary republic should be established, of which Daniel O'Connell is to be the head. If these are the objects in 1844, what were the objects in 1810? The same arguments, the same topics of declamation, the same vehement adjurations, are employed. Gentlemen of the jury, that speech will be read to you; I entreat of you to take it into your box---to compare it with the speeches read on behalf of the crown, and by that comparison to determine the course which you ought to take when the liberty of your fellow-subject is to depend upon your judgment. I am too wearied at present to read that speech, but with the permission of the court I will call on Mr. Ford to read it.

Chief Justice---Certainly.

Judge Perrin---Where did the meeting at which that speech was spoken take place?

Mr. Sheil---At the Royal Exchange.

Mr. Ford then read the following speech:—

“ Mr. O'Connell declared that he offered himself to the meeting with unfeigned diffidence. He was unable to do justice to his feelings, on the great national subject on which they had met. He felt to much of personal anxiety to allow him to arrange in any thing like order, the many topics which rushed upon his mind, now, that after ten years of silence and torpor, Irishmen again began to recollect their enslaved country. It was a melancholy period, those ten years, a period in which Ireland saw her artificers starved—her tradesmen begging—her merchants become bankrupts—her gentry banished—her nobility degraded. Within that period domestic turbulence broke from day to day into open violence and murder. Religious dissensions were aggravated and embittered. Credit and commerce were annihilated, taxation augmented in amount and in vexation. Besides the ‘ hangings of the ordinary assizes, we had been disgraced by the necessity that existed for holding two special commissions of death, and had been degraded by one rebellion; and to crown all, we were at length insulted by being told of our *growing prosperity*. This was not the painting of imagination—it borrowed nothing from fancy. It was, alas! the plain representation of the facts that had occurred. The picture in sober colours of the real state of his ill-fated country. There was not a man present but must be convinced that he did not exaggerate a single fact. There was not a man present but must know that more misery existed than he had described. Such being the history of the first ten years of the union, it would not be difficult to convince any unprejudiced man that all these calamities had sprung from that measure. Ireland was favoured by Providence with a fertile soil, an excellent situation for commerce, intersected by navigable rivers, indented at every side with safe and commodious harbours, blessed with a fruitful soil, and with a vigorous, hardy, generous, and brave population; how did it happen, then, that the noble qualities of the Irish people were perverted?—That the order of Providence was disturbed, and its blessings worse than neglected? The fatal cause was obvious—it was the Union. That those deplorable effects would follow from that accursed measure was prophesied. Before the act of Union passed, it had been already proved that the trade of the country

and its credit must fail as capital was drawn from it---that turbulence and violence would increase when the gentry were removed to reside in another country---that the taxes should increase in the same proportion as the people became unable to pay them! But neither the arguments nor the prophetic fears have ended with our present evils. It has also been demonstrated, that as long as the union continues so long must our evils accumulate. The nature of that measure, and the experience of facts which we have now had, leave no doubt of the truth of what has been asserted respecting the future; but, if there be any still uncredulous, he can only be of those who will not submit their reasons to authority. To such persons the authority of Mr. Foster, his Majesty's Chancellor of the Exchequer for Ireland, would probably be conclusive, and Mr. Foster has assured us that final ruin to our country must be the consequence of the union. I will not dwell, Mr. Sheriff, on the miseries of my country; I am disgusted with the wretchedness the union has produced, and I do not dare to trust myself with the contemplation of the accumulation of sorrow that must overwhelm the land if the union be not repealed. I beg to call the attention of the meeting to another part of the subject. The union, sir, was a violation of our national and inherent rights; a flagrant injustice. The representatives who we had elected for the short period of eight years had no authority to dispose of their country for ever. It cannot be pretended that any direct or express authority to that effect was given to them, and the nature of their delegation excludes all idea of their having any such by implication. They were the servants of the nation, empowered to consult for its good; not its masters to traffic and dispose of it at their fantasy or for their profit. I deny that the nation itself had a right to barter its independence, or to commit political suicide; but when our servants destroyed our existence as a nation, they added to the baseness of assassination all the guilt of high treason. The reasoning upon which those opinions are founded is sufficiently obvious. They require no sanction from the authority of any name; neither do I pretend to give them any weight by declaring them to be conscientiously my own; but if you want authority to induce the conviction that the union had injustice for its principle, and a crime for its basis, I appeal to that of his Majesty's present Attorney General, Mr. Saurin, who in his place in the Irish parliament pledged his character as a lawyer and a statesman, that the union must be a violation of every moral principle, and that it was a mere question of prudence whether it should not be resisted by force. I also appeal to the opinions of the late Lord High Chancellor of Ireland, Mr. George Ponsonby, of the present Solicitor General, Mr. Bush, and of that splendid lawyer, Mr. Plunket. The union was therefore a manifest injustice; and it continues to be unjust at this day; it was a crime, and must be still criminal, unless it should be ludicrously, that crime, like wine improves by old age, and that time mollifies injustice into innocence. You may smile at the supposition, but in sober sadness you must be convinced that we daily suffer injustice; that every succeeding day adds only another sin to the catalogue of British vice; and that if the union continues it will only make the crime hereditary, and injustice perpetual. We have been robbed, my countrymen, most foully robbed, of our birthright, of our independence; may it not be,

permitted us mournfully to ask how this consummation of evil was perfected ? for it was not in any disastrous battle that our liberties were struck down ; no foreign invader had despoiled the land ; we had not forfeited our country by any crimes ; neither did we lose it by any domestic insurrection ; no, the rebellion was completely put down before the Union was accomplished ; the Irish militia and the Irish yeomanry had put it down. How then have we become enslaved ? Alas ! England, that ought to have been to us a sister and a friend—England, whom we had loved and fought and bled for—England, whom we have protected, and whom we do protect—England, at a period, when, out of 100,000 of the seamen in her service, 70,000 were Irish, England stole upon us like a thief in the night and robbed us of the precious gem of our liberty, she stole from us “ that which in nought enriched her, but made us poor indeed.” Reflect, then, my friends, on the means employed to effect this disastrous measure. I do not speak of the meaner instruments of bribery and corruption. We all know that everything was put to sale, nothing profane or sacred was omitted in the union mart. Offices in the revenue, commands in the army and navy, the sacred ermine of justice, and the holy altars of God, were all profaned and polluted as the rewards of union services. By a vote in favour of the union, ignorance, incapacity, and profligacy obtained certain promotion ; and our ill-fated, but beloved country, was degraded to her utmost limits before she was transfixed in slavery. But I do not intend to detain you in the contemplation of those vulgar means of parliamentary success ; they are within the daily routine of official management ; neither will I direct your attention to the frightful recollection of that avowed fact, which is now part of history, that the rebellion itself was fomented and encouraged in order to facilitate the Union. Even the rebellion was an accidental and secondary cause—the repeal cause of the Union lay deeper, but is quite obvious—it is to be found at once in the religious dissensions which the enemies of Ireland have created, and continued, and seek to perpetuate amongst themselves, by telling us off, and separating us into wretched sections and miserable sub-divisions ; they separated the Protestant from the Catholic, and the Presbyterians from both ; they revived every antiquated cause of domestic animosity, and invented new pretexts of rancour ; but, above all, my countrymen, they belied and calumniated us to each other ; they falsely declared that we hated each other, and they continued to repeat that assertion until we came to believe it ; they succeeded in producing all the madness of party and religious distinctions, and whilst we were lost in the stupor of insanity, they plundered us of our country, and left us to recover at our leisure from the horrid delusion into which we had been so artfully conducted. Such then were the means by which the union was effectuated. It has stripped us of commerce and wealth—it has degraded us, and deprived us not only of our station as a nation, but even of the name of our country—we are governed by foreigners—foreigners make our laws, for were the hundred members who nominally represent Ireland in what is called the imperial parliament—were they really our representatives, what influence could they, although unbought and unanimous, have over the five hundred and fifty eight English and Scotch members ? But what is the fact ? Why, that out of the hundred, such as they are, that sit for this country, more than one-fifth know nothing of us, and are unknown to us. What, for example, do

we know of Andrew Strahan, printer to the King? What can Henry Martin, barrister-at-law, care for the right and liberties of Irishmen? Some of us may, perhaps, for our misfortunes, have been compelled to read a verbose pamphlet of James Stevens, but who knows anything of one Crile, one Hughan, one Cackin, or of a dozen more whose names I could mention, only because I have discovered them for the purpose of speaking to you about them; what sympathy can we in our sufferings expect from those men? what solicitude for our interests? what are they to Ireland, or Ireland to them? No, Mr. Sheriff, we are not represented; we have no effectual share in the legislation; the thing is a mere mockery; netiher is the imperial parliament competent to legislate for us; it is too unwieldy a machine to legislate with discernment for England alone; but with respect to Ireland, it has all the additional inconveniencies that arise from want of interest and total ignorance. Sir, when I talk of the utter ignorance in Irish affairs of the members of the Irish parliament, I do not exaggerate or mis-state; the ministers themselves are in absolute darkness with respect to this country. I undertake to demonstrate it. Sir, they have presumed to speak of the growing prosperity of Ireland; I know them to be vile and profligate; I cannot be suspected of flattering them; yet, vile as they are, I do not believe that they could have had the audacity to insert in the speech, supposed to be spoken by his Majesty, that expression, had they known that, in fact, Ireland was in abject and increasing poverty. Sir, they were content to take their information from a pensioned Frenchman, a being styled Sir F. D'Ivernois, who, in one of the pamphlets which it is his trade to write, has proved by excellent samples of vulgar arithmetic, that manufactures are flourishing, our commerce extending, and our felicity commensurate. When you detect the ministers themselves in such gross ignorance as, upon such authority, to place an insulting falsehood as it were in the mouth of our revered Sovereign, what think you can be the fitness of nine minor imps of legislation to make laws for Ireland? Indeed, the recent plans of taxation sufficiently evince how incompetent the present scheme of parliament is to legislate for Ireland. Had we an Irish parliament, it is impossible to conceive that they would have adopted taxes at once oppressive and unproductive; ruinous to the country, and useless to the crown. No, sir, an Irish parliament, acquainted with the state of the country, and individually interested to tax proper objects, would have, even in this season of distress, no difficulty in raising the necessary supplies. The loyalty and good sense of the Irish nation would aid them; and we should not, as now, perceive taxation unproductive of money, but abundantly fertile in discontent. There is another subject that peculiarly requires the attention of the legislature; but it is one which can be managed only by a resident and domestic parliament; it includes everything that relates to those strange and portentous disturbances which, from time to time, affright and desolate the fairest districts of the island. It is a delicate difficult subject, and one that would require the most minute knowledge of the causes that produce those disturbances, and would demand all the attention and care of men, whose individual safety was connected with the discovery of a proper remedy. I do not wish to calculate the extent of evil that may be dreaded from the outrages I allude to, if our country shall continue in the hands of foreign

empirics and pretenders ; but it is clear to demonstration that no man can be attached to his king and country who does not avow the necessity of submitting the control of this political evil to the only competent tribunal--an Irish parliament. The ills of this awful moment are confined to our domestic complaints and calamities. The great enemy of the liberty of the world extends his influence and his power from the Frozen Ocean to the Straits of Gibraltar. He threatens us with invasion from the thousand ports of his vast empire. How is it possible to resist him with an impoverished, divided, and dispirited empire. If then you are loyal to your excellent monarch ; if you are attached to the last relic of political freedom, can you hesitate to join in endeavouring to procure the remedy for all your calamities---the sure protection against all the threats of your enemy---the Repeal of the Union. Yes ; restore to Irishmen their country, and you may defy the invaders force ; give back to Ireland her hardy and brave population, and you have nothing to dread from foreign power. It is useless to detain the meeting longer, in detailing the miseries that the union has produced, or in pointing out the necessity that exists for its repeal. I have never met any man who did not deplore this fatal measure which has despoiled his country ; nor do I believe there is a single individual in the island who could be found even to pretend approbation of that measure. I would be glad to see the face of the man, or rather of the beast, who could dare to say he thought the union wise or good---for ; the being who could say so must be devoid of all the feelings that distinguishes humanity. With the knowledge that such were the sentiments of the universal Irish nation, how does it happen that the union has lasted for ten years ? The solution of the question is easy, the union continued only because we despaired of its repeal. Upon this despair alone has it continued, yet what could be more absurd than such despair ? If the Irish sentiment be but once known, if the voice of six millions be raised from Cape Clear to the Giant's Causeway, if the men most remarkable for their loyalty to their king and attachment to constitutional liberty, will come forward as the leaders of the public voice, the nation would, in an hour, grow too great for the chains that now shackle you, and the union must be repealed without commotion and without difficulty. Let the most timid amongst us compare the present probability of repealing the union with the prospect that in the year 1795 existed of that measure being ever brought about. Who in 1795 thought an Union possible ? Pitt dared to attempt it, and he succeeded ; it only requires the resolution to attempt its repeal ; in fact it requires only to entertain the hope of repealing it, to make it impossible that the union should continue ; but that pleasing hope could never exist, whilst the infernal dissensions on the score of religion were kept up. The Protestant alone could not expect to liberate his country, the Roman Catholic alone could not do it, neither could the Presbyterians, but amalgamate the three into the Irishman, and the union is repealed. Learn discretion from your enemies, they have crushed your country by fomenting religious discord, serve her by abandoning it for ever. Let each man give up his share of the mischief ; let each man forsake every feeling of rancour ; let, I say, not this to barter with you, my countrymen, I require no equivalent from you, whatever course you shall take, my mind



is fixed ; I trample under foot the Catholic claims, if they can interfere with the Repeal ; I abandon all wish for emancipation, if it delays the Repeal. Nay, were Mr. Percival to-morrow to offer me the Repeal of the Union, upon the terms of re-enacting the penal code, I declare from my heart, and in the presence of my God, that I would most cheerfully embrace his offer. Let us then, my beloved countrymen, sacrifice our wicked and groundless animosities on the altar of our country ; let that spirit which heretofore emanating from Dungaunon spread all over the island, and gave light and liberty to the land, be again cherished amongst us ; let us rally round the standard of Old Ireland, and we shall easily procure that greatest of political blessings, an Irish King an Irish House of Lords, and an Irish House of Commons."

Mr. Shiel then continued---Gentlemen, you have heard that speech read from beginning to end, because that speech conveys the same sentiments, the same feelings, and inculcates the same great principles, almost in the very same language, as we find employed by Mr. O'Connell in 1843 and 1844. That long series of speeches and of writings produced by Mr. O'Connell within the last nine months, are no more than an expansion of the speech of 1810. Was he a conspirator in 1810 ? If so, he was engaged in a conspiracy with Sir Robert Shaw, who took the chair when the high sheriff left it, and declared that it was the boast of his life that he had opposed the union, and that he persevered in the same sentiments ; and will a man in 1844 be accounted guilty of a crime verging on treason, because he had repeated the opinions which he entertained when the shade of an imputation did not rest upon him ? This is a consideration to which I am sure, that you will think that too much importance cannot be attached. At that aggregate meeting, including so large a portion of the Protestant inhabitants of this town, with the high sheriff of the Dublin corporation in the chair, a series of resolutions were passed against the union. It was determined that petitions should be presented to parliament, and that they should be entrusted to Sir Robert Shaw and to Mr. Grattan. Sir Robert Shaw, in his answer, stated that he had opposed the union in parliament, and that his opinion on the subject were unaltered. The following is the answer of Mr. Grattan, and that answer affords a proof of the falsehood of an allegation often made, that a great change of opinion had taken place in the mind of that illustrious man with respect to the legislative union :---

" Gentlemen—I have the honour to receive an address presented by your committee, and an expression of their wishes that I should present certain petitions and support the repeal of an act entitled the Act of Union ; and your committee adds, that it speaks with the authority of my constituency, the freemen and freeholders of the city of Dublin. I beg to assure your committee, and through them my much beloved and much respected constituents, that I shall accede to their proposition ; I shall present their petitions, and shall support the repeal of the Act of Union with that decided attachment to our connection with Great Britain, and to that harmony between the two countries, without which the connection cannot last. I do not impair either, as I apprehend, when I assure you, I shall support the repeal of the Act of Union. You will please to observe that a proposition of that sort, in parliament, to be either prudent or possible, must wait till it is called for and backed by the nation. When

proposed I shall then—as at all times I hope I shall—prove myself an Irishman, and that Irishman whose first and last passion was his native country.”

HENRY GRATTAN.

“Backed by the nation.” Mark that phrase. It occurs again and again in the speeches of Mr. O’Connell. Mr. O’Connell again and again declares that unless backed by the nation nothing can be accomplished by him. And if it be a crime to apply all the resources of his intellect, with an indefatigable energy and an indomitable perseverance to the attainment of that object by the means described by Mr. Grattan in the phrase “backed by the nation,” then is the son of Daniel O’Connell guilty. It will be strange, indeed, if, in the opinion of twelve men of plain of sense and of sound feeling, it should be deemed a crime to seek the attainment of Repeal by the only instrumentality by which Mr. Grattan said it could be effected. What is the meaning of being “backed by the nation?” What is the nation? We say, the Irish Catholics, the enormous majority of the people, are the nation. You say the Irish Protestants, who have the property of the country, who are in the exclusive enjoyment of great intellectual advantages, and who are united, organised, and determined, are the Irish nation. The Irish Catholics and the Irish Protestants are both in the wrong. Neither constitute the Irish nation. Both do; and it was the sustainment of both that Mr. Grattan considered to be indispensable to make the proposition in parliament either prudent or possible. That just object—the combination of all classes and of all parties in this country—Mr. O’Connell has laboured to attain. You may think that he has laboured, and will labour in vain to attain it; but you cannot consider it criminal to toil for its accomplishment; and if you conceive that that was his object and the object of his son; or if you have a reasonable doubt upon the subject, you are bound to acquit him. In 1812 Mr. Percival lost his life, and efforts were made to construct a cabinet favourable to emancipation: the project failed, and a state prosecution against the Catholic board was resolved on. Mr. Burrowes was the counsel for the defendants, and at the outset of his speech he boldly adverted to the fact that not a single Roman Catholic was upon the jury. He said; “I confess, gentlemen, I was astonished to find that no Roman Catholic was suffered to enter the box, when it is well known that they equal, if not exceed Protestant persons upon other occasions; and when the question relates to privileges of which they claim a participation, and you possess a monopoly. I was astonished to see twenty-two Protestant persons, of the highest respectability, set aside by the arbitrary veto of the crown, without any alleged insufficiency, upon the sole demerit of suspected liberality. I was astonished to find a juror pressed into that box who did not deny that he was a sworn Orangeman, and another who was about to admit, until he was silenced, that he had prejudged the cause. Those occurrences, at the first aspect of them, filled me with unqualified despair. I do not say that the crown lawyers have had any concern in this revolting process, but I will say that they ought to have interfered in counteracting a selection which has insulted some of the most loyal men of this city, and must disparage any verdict which may be thus procured. But, gentlemen, upon a nearer view of the subject, I relinquish the despair

by which I was actuated, I rest my hopes upon your known integrity, your deep interest in the welfare of the country, and the very disgust which yourselves must feel at the manner and motive of your array. You did not press forward into that jury box---you did not seek the exclusion, the total exclusion of any Roman Catholic---you, no doubt, would anxiously desire an intermixture of some of those enlightened Roman Catholics whom the Attorney-General declared he was certain he could convince, but whom he has not ventured to address in that box. The painful responsibility cast upon you is not of your own wishing, and I persuade myself you will, on due reflection, feel more indisposed to those who court and influence your prejudices, and would involve you in an act of deep responsibility, without that fair intermixture of opposite feelings and interest, which, by inviting discussion, and balancing affections, would promise a moderate and respected decision, than towards me, who openly attack your prejudices, and strive to arm your consciences against them. You know as well as I do that prejudice is a deadly enemy to fair investigation, that it has neither eyes nor ears for justice---that it hears and sees everything on one side---that to refute it is to exasperate it; and that, when it predominates, accusation is received as evidence, and calumny produces conviction." It might, at first, appear likely that a Protestant jury would take an address so bold in bad part; but they gave Mr. Burrows credit for his manly frankness, and they acquitted the traversers. The crown resorted to a second prosecution; means more effectual were adopted and a conviction was obtained. Saurin did not deny that the Roman Catholics had been excluded. He was of opinion that Protestant ascendancy should everywhere prevail, and not least in those public tribunals which are armed with so much authority, and exercise so much influence over the fortunes of the state. I did not blame Mr. Saurin. He acted, in all likelihood, conscientiously, and whatever were his faults, duplicity was certainly not amongst the number. I saw him in the height of his power and in his fall: he was meek in his prosperity, and in his adverse fortune he was serene. The lustre of adversity shone in his smile; for his faults, such as they were, his name, in an almost inevitable inheritance of antipathy, furnishes an excuse. How much more commendable was his conduct and the conduct of the government of the day, than if they had been profuse of professions they never meant to realise, and had offered an insult to the understanding as well as a gross wrong to the rights of the Irish people; and yet I shall not be surprised if, notwithstanding all that has happened, the same cant of impartiality shall be persevered in, and that we shall hear the same protestations of solicitude to make no distinctions between Catholics and Protestants in all departments, but more especially in the administration of the law. The screen falls---"the little French milliner" is disclosed---"by all that is horrible, Lady Teazle;" yet Joseph preserves his self-possession, and deals in sentiment to the last. But if, after all that has befallen, my Lord Eliot shall continue to deal in sentimentality in the House of Commons, the exclamation of Sir Peter Teazle, "Oh, damn your sentiment!" will break in upon him on every side. The government, as I told you, in 1802 succeeded in state prosecutions. What good for the country was effected by it? Was the Catholic question put down, or did a verdict facilitate the government

of Mr. Peel, who was soon after appointed secretary for Ireland. He was an Irish member. You are surprised at the intimation. He was returned for the borough of Cashel, where a very small, but a very discriminating constituency, were made sensible of his surpassing merits. It has been remarked, that young statesmen who are destined to operate upon England, are first sent to dissect in this country. Mr. Peel had a fine hand and admirable instruments, and he certainly gave proof that he would give the least possible pain in any amputations which he might afterwards have to perform. He was decorous—he avoided the language of wanton insult; endeavoured to give us the advantages of a mild despotism, and “dwelt in decencies for ever.” Yet, was his Irish government, and he must have felt it, an utter failure—he must have seen, even then, the irresistible arguments in favour of Catholic emancipation; but he had not the moral intrepidity to break from his party, and to do at once what he was compelled to do afterwards. The insurrection act was renewed, the disturbances of the country were not diminished, and Ireland continued to reap the bitter fruits of imperial legislation. A new policy was tried after Mr. Peel had proceeded to England, and the notable expedient was adopted of counteracting the secretary with the lord lieutenant, and the lord lieutenant with the secretary. We had Grant against Talbot, and Wellesley against Goulburn. It is almost unnecessary to say, that a government carried on upon such a principle was incapable of good. The Roman Catholics of Ireland had been led from time to time to entertain the hope that something would be done for their relief. Their eyes were opened at last by the disingenuous dealing of George IV., who only smothered his laughter with the handkerchief with which he affected to dry his eyes; and Daniel O’Connell, feeling that liberty could never be achieved by going through the miserable routine of supplication, founded the celebrated society, by which results so great were almost immediately produced—the Catholic Association was created by him. He constructed a gigantic engine by which public opinion was to be worked; he formed with singular skill the smallest wheels of his complicated machinery, and he put it into motion by that continuous current of eloquence which gushed with an abundance so astonishing as if from a hot well from his soul. A vast organisation of the Catholic millions was accomplished—the Catholic aristocracy—the middle classes—the entire of the clergy were enrolled in this celebrated confederacy. The government became alarmed, and in 1825 a bill was brought in for the suppression of this famous league. Mr. O’Connell proceeded to London, and tendered the most extensive concessions to the government. An offer was made to associate the Catholic church with the state. If the Catholic question had been adjusted in 1825, and upon the terms proposed, it is obvious that the fearful agitation that disturbed the country during the four succeeding years would have been avoided. Not only were the offers rejected, but the bill for the suppression of the Catholic Association was carried. It was, however, laughed to scorn, and proved utterly inoperative. The energy of Mr. O’Connell now redoubled. The peasantry were taught to feel that the elective franchise was not a trust vested in the tenant for the benefit of the landlord. A great agrarian revolt took place, accompanied, beyond all doubt, with great evils, for which, however, those by whom justice

was so long delayed are to be held responsible; the Beresfords were overthrown in Waterford, in Louth the Forsters received a mortal blow, and at length the great Clare election gave demonstration of a moral power, whose existence had scarcely been conjectured. I remember to have seen the late Lord Fitzgerald—an accomplished and enlightened man—looking with astonishment at the vast and living mass which he beheld from a window of a room in the court house where that extraordinary contest was carried on. There were sixty thousand men beneath him—sober, silent, fierce. He saw that something far more important than this return to parliament was at stake. Catholic emancipation was accomplished; and here I shall put two questions. The first is this—do you think that up to the 13th of April, 1829, the day on which the royal assent was given to the Catholic relief bill, the system of government instituted and carried on, under the auspices of an imperial parliament, was so wise, so just, so salutary, so fraught with advantages to this country—so conducive to its tranquilization and to the development of its vast resources—that for nine-and-twenty years the union ought to have been regarded as a great legislative blessing to this country? The second question I shall put to you is this, does it not occur to you that if the present indictment for a conspiracy can be sustained an indictment for a conspiracy might have been just as reasonably preferred against the men who had associated themselves for the attainment of Catholic emancipation? There is not a count in this indictment which, by the substitution of “Catholic emancipation” for “Repeal” might not have been made applicable to the great struggle of the Irish Catholics in 1828 and 1829. Money was collected by the Catholic Association. In America, and more especially in Canada, strong sympathy for Catholic Ireland was expressed. In the Chamber of Deputies M. Chateaubriand adverted to the state of Ireland in the language of minacious intimation. Enormous assemblages were held in the south of Ireland, but more especially in the county of Kilkenny. Speeches were delivered by Mr. O’Connell and by others fully as inflammatory as any which have been read to you. What would have been thought of an indictment for a conspiracy against Mr. O’Connell, against the *Evening Post*, the *Freeman’s Journal*, the *Morning Register*, Doctor Doyle, and my friend Tom Steele, who was at that time, as he is now, a knight-errant, animated by a noble chivalry against oppression in every form? Would it not have been deemed a monstrous thing to have read a very exciting article in three Roman Catholic newspapers, against the men by whom perhaps they never had been perused? Such a thing was never thought of. There were indeed prosecutions. The individual who now addresses you was prosecuted for a speech on the expedition of Wolfe Tone. The bills were found; but Mr. Canning declared in the cabinet that there was not a single line in the speech, which, if spoken in the House of Commons, would have justified a call for order, and he denounced the prosecution as utterly unjust. The prosecution was accordingly abandoned. But, gentleman, if I had been prosecuted for a conspiracy, and held responsible, not for my own speeches, but for those of others, in how different and how helpless a position should I have been placed? Have a care how you make a precedent in favour of such an indictment. During the last nine months, the Attorney General had

ample opportunities, if his own statement be well founded, of instituting proceedings against individuals for what they themselves had written or done. In this prosecution, whose tardiness indicates its intent, you will not, I feel confident, become his auxiliaries. A coercion bill, if the repeal of the union is to be put down, would be preferable, for it operates as a temporary suspension of liberty, but the effects of a verdict are permanently deleterious. The doctrine of conspiracy may be applied to every combination of every kind. It is directed against the repeal association to-day; it may be levelled against the corn law league to-morrow. In one word, every political society, no matter how diversified their objects, or how different their constitution, is within its reach. The Catholic question having been considered, the Tories were put out by a conspiracy formed amongst themselves. The Whigs came in and the reform bill is carried—how? A hundred and fifty thousand men assemble at Birmingham, and threaten to advance on London; a resolution not to pay taxes is passed and applauded by Lord Fitzwilliam. Lord J. Russell and Lord Althorpe became the correspondents of the Birmingham union. Cumber is reduced to ashes; Bristol is on fire; the peers resist, and the Whig cabinet with one voice exclaims “swamp the House of Lords!” And who are the men—the bold, audacious men—conspirators, indeed!—who embarked in an enterprise so fearful, and which could be only accomplished by such fearful means? You will answer, Lord Grey. Yes, Lord John Russell? To be sure. Lord Althorpe? No doubt about it. But is our list exhausted? Do you remember Mr. Hatchell asking Mr. Ross, “Pray, Mr. Ross, have you any acquaintance with Sir James Graham?” It is not wonderful that the Attorney General should have started up and thrown his buckler over the Secretary of the Home Department. Sir James Graham has Ireland under his control. From the Home Office this prosecution directly emanates. Gamblers denounce dice—drunkards denounce debauch—against immoralities let wenchers rail. When Graham indicts for agitation his change of opinion may, for aught I know, be serious, nor have I from motives of partisanship the slightest desire, especially behind his back, to assail him; I will even go so far as to admit that his conversation may have been disinterested; but I do say that he is, of all men, the last under whose auspices a prosecution of this character ought to be carried on. The reform bill becomes the law of the land—the parliament is dissolved, and a new parliament is summoned and called together under the reform bill—and the very first measure adopted in that reformed parliament is a coercion bill for Ireland. The Attorney General read a speech of Lord John Russell’s in favour of coercion. He omitted to read the numerous speeches subsequently made by that noble person, in which his mistake with respect to Ireland is honourably confessed. Gentlemen, I shall not go through the events of the last ten years in detail. It is sufficient to point out to you the various questions by which this unfortunate country has been successively convulsed. The church question. The tithe question. The municipal bill. The registration bill. These questions, with their diversified ramifications, have not left us one moment rest. Cabinets have been destroyed by them. The great parties in the state have fought for them. Ireland has supplied the fatal field for the encounter of contending parties. No single measure for the sub-

stantial and permanent amelioration of the country has been adopted ; and here we are, at the opening of a new session of parliament, with a poor-rate on our estates, a depreciating tariff in our markets, and a state prosecution in her Majesty's Court of Queen's Bench. Such, gentlemen, are the results of the system of policy adopted in that imperial parliament whose wisdom and whose beneficence have been made the theme for such lavish panegyric. Gentlemen I do not know your political opinions. I do not know that there is any one man among you favourable to the repeal of the union ; but if every one of you are fearful of that measure becoming ultimately the occasion of a dismemberment of the empire, still its discussion may not be useless. If the councils of the state were governed by no other considerations than those which are founded upon obvious justice ; or if measures were to be carried by syllogisms, and government was a mere matter of dialectics, then all great assemblages of the people should, of course be deprecated, and every exciting adjuration addressed to the passions of the people should be strenuously repressed. But it is not by ratiocination that a redress of grievances can be obtained. The agitator must sometimes follow the example of the diplomatist, who asked for what is impossible, in order that what was possible may be obtained. It must strike the least observant that when the government complains most vehemently of demagogue audacity, their resentment is the precursor of their concessions. Take, as an example, the landlord and tenant commission, which there are some conservatives who think will disturb the foundations of property, and against which Lord Brougham addressed his admonitory deprecation to Sir Robert Peel. For my own part, I think it may lead to results greater than were contemplated ; for it appears to me to have been chiefly intended as a means of diverting public attention from the consideration of the other great grievances of the country. The main source of all these grievances, I am convinced, is to be found in the colonial policy pursued with regard to this country. The union never has been carried into effect. If it had, Ireland would not be a miserable dependant in the great imperial family. The Attorney General expressed great indignation at the motto at Mullaghmast---" Nine millions of people cannot be dragged at the tail of any nation on earth." That sentiment is taken from a paragraph in the *Morning Chronicle* newspaper, and I have no hesitation in saying that I at once adopt it. To mere numbers, without intelligence, organization, or public spirit, I for one attach no value. But a great development of the moral prowess of Ireland has taken place. Instruction is universally diffused. The elements of literature, through which political sentiment is indirectly calculated, are taught by the state. Ireland has, if I may speak, undergone a species of transformation. By one who had seen her half a century ago, she would be scarcely recognized. The simultaneous, the miraculous abandonment of those habits to which Irishmen were once fatally addicted at the exhortation of an humble friar, is a strong indication of what might be done by good government with so fine a people. Without saying that the temperance movement affords a proof of the facility with which the national enthusiasm can be organised and directed. I think it is one among the many circumstances which should induce us to think that we come to such a pass in this country that some great

measures for its security and its happiness are required. I perceive the great literary organ of the Whig party has recently suggested many bold measures, which it represents as necessary for Ireland. There are numerous difficulties connected with some of the propositions to which I refer; but there is one which I consider to be as practicable as it is plain and just. It is recommended that the imperial parliament should sit at certain intervals in this great city. I cannot see any sound objection in the imperial parliament assembling in the month of October, for the discharge of Irish business alone, and that all imperial questions should be reserved until the London session commenced, as it now does, in the month of February. The public departments, it is true, are all located in London; but during the Irish session a reference to those departments would not be required. Such a session might be inconvenient to English members; but the Repeal agitation and a state prosecution, like the present, are attended with inconveniences far greater than any which English members in crossing the Irish channel would encounter. The advantages which would accrue from the realisation of this project are of no ordinary kind. The intercourse of the two countries would be augmented to a great extent—their feelings would be identified—national prejudices would be reciprocally laid aside. An English domestication would take place. Instead of lending money upon Irish mortgages, Englishmen would buy lands in Ireland, and live upon them. The absentee drain would be diminished. The value of property would be very nearly doubled. Great public works would be undertaken, and the great natural endowments of the country would be turned to account. This city would appear in renovated splendour. Your streets would be shaken by the roll of the gorgeous equipages in which the first nobles of the country would be born to the senate house, from which the money changers should be driven. The mansions of the aristocracy would blaze with that useful luxury which ministers to the gratification of the affluent, and to the employment and the comforts of the poor. The Sovereign herself would not deem the seat of her parliament unworthy of her residence. The frippery of the vice-regal court would be swept away. We should look upon royalty itself, and not upon the tinsel image; we should behold the Queen of England, of Ireland, and of Scotland in all the pomp of her imperial regality, with a diadem; the finest diadem in the world, glittering upon her brow, while her countenance beamed with the expression of that sentiment which becomes the throned monarch better than the crown. We should see her accompanied by the Prince of whom it is the highest praise to say that he has proved himself to be not unworthy of her. We should see her encompassed by all the circumstances that associate endearment with respect. We should not only behold the queen but the mother and the wife, and see her from the highest station on which a human being could be placed, presenting to her subjects the finest model of every conjugal and maternal virtue. I am not speaking in the language of a factitious enthusiasm. I am sure that this project is not only feasible, but easy. If the people of this country were to combine in demanding it, a demand so just and reasonable could not be long refused. It is not subject to any one of the objections which attach to the repeal question. No rupture of the two parliaments no dismemberment of the empire is to be apprehended. Let Irishmen unite



in putting forth a requisition for a purpose which the minister would not only find expedient, but inevitable. But if you, gentlemen, shall not only not assist in an undertaking so reasonable and so safe, but shall assist the Attorney General in crushing the men who have had the boldness to complain of the grievances of their country, you will lay Ireland prostrate. Every effort for her amelioration will be idle. Every remonstrance will not only be treated with disregard, but with disdain; and for the next twenty years, we may as well relinquish every hope for our country. Gentlemen, you may strike agitation dumb—you may make millions of mutes; but beware of that dreary silence, whose gloomy taciturnity is only significant of the determination of its fearful purpose. Beware of producing a state of things which may eventuate in those incidents of horror which every good man will pray God to avert, and which will be lamented by those who contribute to their occurrence, when repentance, like that of those who are for ever doomed, shall be unavailing, and contrition shall be in vain. Gentlemen of the jury, I do not deny that strong speeches have been made by my client, and by the rest of the traversers; but I deny that those speeches, when taken altogether, bear the interpretation put upon them. To this subject I shall revert. At present I entreat you to consider whether the speeches of Mr. John O'Connell are of a more exciting and inflammatory character than those which are spoken in almost every popular assembly, whether it be Whig, Radical, or Conservative. Mr. John O'Connell proposed the health of the Queen in language of enthusiastic loyalty at Mullaghmast, and added that the speech delivered by the Queen was the speech of the ministers, and could not be justly considered as the emanation of her own unbiassed mind. This is beyond all question constitutional doctrine; although the Attorney General took a most especial care not to tell you this. Indeed he made an ultra-forensic endeavour to convey to you the impression that the traversers had spoken of her Majesty in the language of personal disrespect. He was hurried away so far by an unfortunate impetuosity as to start up during the trial and say that her Majesty had been spoken of as a fishwoman. For this most gross misrepresentation there is not the slightest shadow of foundation. In every speech in which any allusion to the Queen was made, the most profound deference was expressed for the Sovereign, who enjoys the unaltered and unalterable confidence of her Irish people. Mr. John O'Connell may have used strong expressions, but he is not indicted for them. He is indicted for a conspiracy, and for nothing else. And even if he were indicted for these strong expressions, in the uniform habit of Englishmen in their public discussions, he would find a justification. You probably have read some of the speeches made at the meetings of the Anti Corn League. They were fully as violent as the repeal harangues. The aristocracy is denounced as "selfish," "sordid," and "base hearted." A total overthrow of the existing order of society is foretold; references are made to the French revolution, and the great proprietors of the country are warned to beware. But the Anti-Corn League, it may be said, is a Radical institution. How is it? The Tories themselves, when under the influence of partizanship, expressed themselves in reference to the Sovereign herself. You cannot have forgotten the contumelies heaped upon the head of the Queen upon the resignation in 1839 of Sir Robert

Peel. I will not, gentlemen, disgust you by a more distinct reference to those traitorous diatribes, in which even clergymen took part. It is better we should inquire how it is that gentlemen connected with these very prosecutions have thought it decorous to comport themselves when their own passions were excited. The name of the Right Hon. Frederick Shaw is attached to the proclamation. I hold in my hand the peroration of a speech delivered by that gentleman, and reported in the *Evening Mail*.—"The government might make what regulation it pleased; but he trusted the people knew their duty too well to submit to its enactments. We might degrade our mitres; it might deprive us of our properties; but if the government dared to lay its hand on the Bible, then we must come to an issue. We will cover it with our bodies. My friends, will you permit your brethen to call out you in vain? in the name of my country and my country's God. I will appeal from a British House of Commons to a British people. My countrymen would obey the laws so long as they were properly administered; but if it were sought to lay sacrilegious hands on the Bible, to tear the standard of the living God, and to raise a mutilated one in its stead, then it would be no time to halt between two opinions, then, in every hill and every valley would resound the rallying cry of "To your tents, oh Israel." I won't ask the Attorney General of Ireland what he thinks of this, because this speech refers to a subject somewhat embarrassing to him; and what his opinions are, upon the Education Board, it is not very easy to conjecture; but I may venture to ask the Solicitor General, who is himself a commissioner of the Education Board, whether Daniel O'Connell, in his whole course of agitation, ever uttered a speech half so inflammatory as this? With respect to Mr. Sergeant Warren, he, I suppose agrees in every word of it, and only laments that after so much sound and fury of the Recorder of Dublin is the steadfast supporter of the government, by whom all misdeeds thus eloquently denounced have been subsequently committed. Gentlemen I find in the *Evening Packet* of the 24th of January, 1837, an account of a great Protestant meeting which took place at the Mansion House, where all the great representatives of the Conservative interest in this country were assembled. Some very strong speeches, indeed, were made at the meeting. The Earl of Charleville said, "Well, gentlemen, you have a rebellious parliament; you have a Lord Lieutenant, the slave and minion of a rebellious parliament." That speech was heard by the Right Hon. Thomas Berry Cusack Smith. Did he remonstrate against the use of language so unqualified? Not at all. He got up and made a speech, in which he stated that "he was sorry to find that Roman Catholic members of parliament paid so little regard to their oaths." When the right honorable gentleman had such impressions, I cannot feel surprised that care should have been taken to exclude every Roman Catholic from the jury-box. Let him not misapprehend me. I do not refer to his language in the spirit of resentment. Resentment is not the feeling which the conduct of the right honorable gentleman is calculated to produce. The right hon. gentleman has expressed great indignation at the references made at Mullaghmast to transactions from which the veil of oblivion ought not to be withdrawn. He said, and justly enough, that men should not grope in the

annals of their country for the purpose of disinterring those events whose resuscitation can but appal and scare us. But how does the right honorable gentleman reconcile that position with his having been himself a party to a resolution passed at the meeting of which I am speaking, in which it is stated that the condition of the Protestants of Ireland is almost as alarming as it was in the year 1641, when events took place from whose recollection we ought to turn with horror and dismay. I referred you, gentlemen, to speeches. Permit me now to refer you to the great monster meetings which have taken place in assertion of the rights of the Protestants of Ireland. Mark, I do not complain of those meetings. I do not complain that 75,000 men should have assembled and moved in order of battle; but I do complain that the men who look upon those assemblages with so much indulgence, when the purposes of their own party were to be promoted, denounced as treasonable assemblies in which no such demonstration of organised and perfectly disciplined physical force was made. The first meeting of the monster character to which I shall refer is the great Cavan meeting, where twenty thousand men assembled under such circumstances of such deep impressiveness, as to render then equivalent in practical effect to five times that number of such a peasantry as attended the repeal demonstration. The following incident is illustrative:—The Rev. Marcus Beresford stood up, and, after a speech in his accustomed vein, said—"I see amongst us a good and honest man, from the county of Monaghan, who rendered considerable service, by routing Mr. John Lawless from Ballibay—I mean Mr. Samuel Gray (cheers)—and were I a poet I should introduce him to you in a couplet—

Here is Mr. Samnel Gray,  
The Protestant hero of Ballibay. (Cheers and laughter)

He is a good, honest, straightforward Protestant; as glad to see the Protestants of Cavan as they are to see him." Mr. Samuel Gray, who appears to have been transported by the reception given him by his Protestant brethren; (roars of laughter;) then came forward and was received with loud cheers. He said "he was a very humble individual, and could only claim the merit of being a sincere and consistent Protestant. He knew the Orangemen of Monaghan well; they were all prepared, and in the hour of danger would be ready to assist their brethren (cheers). As long as the spirit of the Protestants of Ulster remained unbroken; as long as they stuck together heart and hand; so long may they defy Mr. O'Connell, aided by a Whig government, to put them down (cheers). Should the storm arise a signal would be sufficient to bring him and the Orangemen of Monaghan to the assistance of their brethren (loud cheers.)" But let us now proceed to the picturesque account given of the Hillsborough meeting, celebrated in the annals of Protestant agitation, by the *Evening Mail*:—"At an early hour of the morning (some of them, indeed, over night) the great landed proprietors of the county repaired to the different points on their respective estates at which it had been previously agreed they should meet their tenants, and march them at their head to the general place of assemblage, so that the area in front of the hustings did not present a very crowded appearance, until the men arrived in large

masses, each having the pride of marching, border fashion, shoulder by shoulder, beside his neighbour and brother, with whom he was ready to sacrifice life in defence of his country and religion. Shortly after eleven o'clock, a tremendous shout from the town announced the approach of the first party. They were from Moira, and were headed by the Reverend Holt Waring, who was drawn by the people. A flag, the union-jack, was hoisted at Mr. E. Reilley's as the signal of their arrival. In a few seconds they were seen descending the steep hill from the town, and, approaching the place of meeting in a close, dark, and dense mass, comprising certainly not less than twenty thousand persons. Having escorted Mr. Waring to the foot of the platform they received his thanks, expressed in warm and energetic language, and having given three cheers, deployed round and took the position assigned them. \* \* \* Amongst those who marched at the head of the largest battalion, if we may use the expression, were the Marquisses of Londonderry and Downshire; Lord Clanwilliam, Sir Robert Bateson, Colonel Forde, Colonel Blacker, Lord Castlereagh, and Lord Roden. The latter had fifteen thousand men in his followers. They marched from Dromore. At twelve o'clock the scene was the most imposing that fancy could conceive, or that language possesses the power of depicting. The spectacle was grand, unique, sublime. There certainly could not have been, upon the most moderate computation, less than seventy-five thousand persons present, exclusive of the thousands who filled the town, or thronged to absolute impediment all the adjacent roads and avenues." From that description, gentlemen, I turn to a resolution passed by the Irish Orangemen on the 12th November, 1834, and which I find in the appendix to the report from the select committee on Orange lodges:—"And, lastly, we would beg to call the attention of the grand lodge, and through them return our heartfelt thanks and congratulations to our brethren through the various parts of Ireland, who in the meetings of three thousand in Dublin, four thousand at Bandon, thirty thousand in Cavan, and seventy-five thousand at Hillsborough; by their strength of numbers, the rank, the respectability, and orderly conduct of their attendance—the manly and eloquent expression of every Christian and loyal sentiment, vindicated so nobly the character of our institution against the aspersion thrown on it, as the 'paltry remnant of a faction.' That phrase, gentlemen, is one which Lord Stanley, in one of his wayward moods, was pleased to apply to the Orangemen of Ireland. Gentlemen, in the part of the report which I have read to you there are some remarkable entries relating to a subject of which you have heard, a good deal from the Attorney General; and although I deviate, I am aware, from the order of topics which I had prescribed to myself, yet, finding in the book before me matter which seems to me to be exceedingly pertinent to that topic, I shall now advert to it. Gentlemen, the entries to which I am alluding are these—"15th February, 1833, William Scott, 16th company Royal Sappers and Miners. That the committee would most willingly forward all documents connected with the Orange system to any confidential persons in Ballymona, as prudence would not permit the printed documents should be forwarded direct to our military brethren." "1st January, 1834, —Resolved, that warrant 1592 be granted to Joseph Mins, of the 1st Royals." "17 December, 1829, moved by the Rev. Charles Boyton, seconded by

Edward Cottingham, that the next warrant be issued to the 66th regiment, and that Quebec brethren be directed to send in a correct return, in order that the new warrants may be issued." Gentlemen, I refer you to these resolutions with no other view than to show you what proceedings men who conspire to establish an influence over the army naturally adopt. If it was the object of the traversers to seduce the army from their allegiance, would not expedients have been adopted very different from those imputed to the defendants? Would not repeal societies have been formed? Would not a clandestine correspondence have taken place with the "military brethren?" Would not money have been distributed to the soldiery? Would not the propagators of mutiny have been located in the public-houses frequented by soldiers? Would not Roman Catholic priests who attend at the military hospitals have been charged to instil Repeal principles into the soldiers' ear? Does anything of this kind appear to have been done? A letter written by the Rev. Mr. Power, a Waterford priest, who is not made a defendant, who is not to be punished for his letter, is given in evidence against my client, although he is as innocent of its composition as the foreman of the jury. When that letter appeared in the *Nation* newspaper, why was not an *ex officio* information filed against the Rev Mr. Power, whose manuscript would most certainly have been given up? But that would not have answered the purpose of the Attorney General, whose object it was to ensnare. The Attorney General has not suggested a reason, or glanced at a pretence for not having indicted Father Power. He read his letter from the beginning to the termination. He told you that it was written by a priest---that his name was to it. He does not persecute the priest---he does not prosecute the paper, but reserves it for the conspiracy on which his official renown is to be founded. What gentlement has been the course adopted by the government in those prosecutions? Sir Edward Sugden begins by dismissing some of the most respectable magistrates of the country, on account of something or other that was said in the House of Commons, and because "the meetings have a tendency to outrage." The direct contrary has been proved by every one of the witnesses for the crown, and Mr. Ross, the clandestine sub-inspector of the Home office, in the very last words of his examination, stated that he saw no tendency to outrage whatsoever. Lord Cottenham declared in the House of Lords that the proceeding of the Lord Chancellor was utterly unconstitutional. Let me be permitted, gentlemen, to contrast the proceedings adopted by the Lord Chancellor of Ireland with the doctrines laid down in the charge of Mr. Baron Alderson, in his charge to the grand jury, delivered at the Monmouth summer assizes, 1839 :---"It is reported in 9th Carrington and Payne, page 95 :---"There is no doubt that the people of this country have a perfect right to meet for the purpose of stating what one, or even what they, consider to be their grievances; but in order to transmit that right unimpaired to posterity, it is necessary that it should be regulated by law and restrained by reason. Therefore, let them meet if they will in open day, peaceably and quietly; and they would do wisely, when they meet, to do so under the sanction of the constituted authorities of the country. To meet under irresponsible presidency is a dangerous thing. Nevertheless, if when they do meet under that

irresponsible presidency they conduct themselves with peace, tranquillity, and order, they will, perhaps, lose their time, but nothing else. They will not put other people into alarm, terror, and consternation. They will probably in the end come to the conclusion, that they have acted foolishly; but the constitution of this country did not, God be thanked, punish persons who mean to do that which was right, in a peaceable and orderly manner, and who are only in error in the views which they have taken on some subject of political interest." Has a single respectable gentleman of station, and rank, and living in the vicinity of the place where any of those meetings were held, been produced to state to you that they were the source of apprehension in the neighbourhood? Has any man been produced to you who stated that they had even a tendency to outrage? Not one.

Mr. Shiel was interrupted at this period of his address by an intimation that the jury wished to retire for refreshment.

Mr. Shiel, when their lordships returned into court, resumed as follows: I have already called attention to the fact that none of the gentry of the country were brought forward to state what the character of these meetings was. All the official persons examined; among whom were several of the high constables of the various districts; concurs in stating that there was no violation of the peace at any of them. Indeed, the assertion of the Attorney General was, that the peace was kept; kept with the malevolent intention of enabling the whole population to rise at a given time, and establish a republic, of which Mr. O'Connell was to be the head. Forty-one of these meetings were held; all of the same character; and at length a proclamation was determined on and issued for the purpose of putting a stop to the Clontarf meeting. You have heard the remarks of Mr. O'Connell, in reference to the course adopted towards that meeting, and to me they appear extremely reasonable. Notice of that meeting had been given for three weeks, yet the proclamation was not published until the day before that on which it was to have taken place. Mr. O'Connell did not charge the government, when acting in this way, and delaying its measures till the last moment, with being capable of such an atrocious and destructive attempt on the lives of the people, as might have been perpetrated by sending the army amongst an unarmed populace, if the meeting had taken place. Such an event might have taken place; and it is to be regretted that a more timely warning, one that would have removed all doubt and uncertainty, was not given. I pass this consideration by, and come to another point. It is a usual practice; a rule in fact; that when a privy council is to assemble, summonses are directed to be issued to all privy councillors being within the vicinity of the city of Dublin. On this occasion such summonses were not issued. I am given to understand that Chief Baron Brady, who is in the habit of attending at councils, was not summoned. The Right Honourable Anthony Richard Blake, a Roman Catholic gentleman, who was appointed Chief Remembrancer of the Exchequer under a tory administration; the intimate friend of the Marquis Wellesley; a man who had never appeared in public assemblies, or interfered in the proceedings of public meetings; a man who never uttered an inflammatory harangue in his life; that gentleman did not receive a summons. I will make no comment on this

omission of the government on this occasion, but such undoubtedly is the fact. I have told you who did not receive summonses, and I shall proceed to stated who did receive them. The Recorder of the City of Dublin by whom the jury list was to be revised; he received a summons. In his department it was that an event most untoward as respects the traversers, befel. It was suggested in this court that the jury list possibly might have been mutilated or decimated; for decimation it was; by an accident; perhaps by a rat, as was suggested by one of the court. I am far from suggesting that there was any intentional foul play in this decimation, but that a large portion of the list was omitted is beyond a doubt. I state the fact and make no comment on it. Well, an application was made for the names of the witnesses on the back of the document, on behalf of the traversers. One of the judges declared he thought it matter of right; another of the judges intimated his opinion that it would be advisable for the crown to furnish the list within a reasonable time. From that day to this the list has never been given. The list of jurors is drawn by ballot: there are eleven Catholics upon it. They are struck off. The trial comes on. A challenge is put in to the array, upon the ground that one-tenth, or very nearly one-tenth, of the jury-list was suppressed. One of the court expresses an opinion that the challenge is a good one. His brethren differ from him; but when in a trial at bar, at the instance of the crown, one of the judges gives an intimation so unequivocal as to the construction of the jury list, perhaps it would have been more advisable for the crown to have discharged the order for a special jury, and to have directed the high sheriff of the city to have returned a panel. I mention these incidents, gentlemen, in order that your feeling that the traversers have been deprived of some of those contingent benefits given them by the law, should give them an equivalent for any loss which they may have sustained in your anxious performance of your sacred duty. At length, in the midst of profound silence, the Attorney General states the case for the crown, and consumes eleven hours in doing so. I was astonished at his brevity, for the pleading on which his speech was founded is the very Behemoth of indictments, which as you see, "upheaves its vastness" on that table. Nothing comparable in the bigness of its gigantic dimensions has ever yet been seen. The indictment in Hardy's case, whose trial lasted ten or eleven days does not exceed three or four pages; but this indictment requires an effort of physical force to lift it up. Combined with this indictment was a tremendous bill of particulars in keeping with it. Gentlemen, the Attorney General, as I have already observed to you at the outset of these observations, denounced the traversers at the close of almost every sentence that was uttered by him; but it struck me that it was only in reference to two of these charges that he broke forth in a burst of genuine and truly impassioned indignation. The first of those charges was---a conspiracy to diminish the business of a court of law. How well the great Lord Chatham exclaimed--I remember to have read it somewhere, but I forget where, "Shake the whole constitution to the centre, and the lawyer will sit tranquil in his cabinet; but touch a single thread in the cobwebs of Westminster-hall, and the exasperated spider crawls out in its defence." The second great hit of the right hon. gentleman was made when he

charged Mr. O'Connell with the deplorable ignorance of law, in stating certain prerogatives of the crown. With respect, gentlemen, to the arbitration courts, the Society of Friends are as liable to an indictment for conspiracy as the defendants. The regulations under which the Quaker arbitration system is carried on will be laid before you ; and the opinions of Lord Brougham, who has always been the strenuous advocate of the arbitration system, will, I am sure, have their due weight upon you. With regard to Mr. O'Connell's alleged mistake respecting the power of the crown to issue writs—what is it, after all, but a project for swamping the House of Commons, analagous to that of Sir James Graham and my Lord Stanley for swamping the House of Lords? The plain truth is this—the Sovereign has the abstract right to create new boroughs. But the exercise of that right might be regarded as inconsistent with the principles of the constitution. Lord Denman and one of his late Majesty's law advisers in the House of Commons distinctly asserted the right to issue writs ; and although that opinion was reprehended by Sir Charles Whetherall, I believe that of its being strict law there can be little doubt. But the real question between the Attorney General and the traversers, and the only one to which you will be disposed to pay much regard, was raised by the Attorney General when he said there existed a dangerous conspiracy, of which the object was to prepare the great body of the people to raise at a signal and to erect a sanguinary republic, of which Daniel O'Connell should be the head. Gentlemen, how do men proceed who engage in a guilty enterprise of this kind ? They bind each other by solemn oaths. They are sworn to secrecy, to silence, to deeds, or to death. They associate superstition with atrocity, and heaven is invoked by them to ratify the covenants of hell. They fix a day, an hour, and hold their assemblages in the midst of darkness and of solitude, and verify the exclamation of the conspirator, in the language of the great observer of our nature—

“ Oh, Conspiracy,  
Where wilt thou find a cavern dark enough  
To hide thy monstrous visage ?”

How have the Repeal conspirators proceeded ? Every one of their assemblages have been open to the public. For a shilling, all they said, or did, or thought, were known to the government. Everything was laid bare and naked to the public eye ; they stripped their minds in the public gaze. No oaths, no declaration, no initiation, no form of any kind was resorted to. They did not act together—Mr. Duffy proprietor of the *Nation*, did not attend a single meeting in the country. My client attended only three ; Mr. Tierney, the priest, attended no more than one. It would have been more manly on the part of the Attorney General to have indicted Mr. Dr. Higgins or Dr. Cantwell, or, as he was pleased to designate them Bishop Higgins and Bishop Cantwell. Well, why did he not catch a bishop—if not Cantwell, at all events Higgins ? For three months we heard nothing but “ Higgins, Higgins, Higgins.” The *Times* was redolent of Higin ; sometimes he was Lord Higgins, then he was Priest Higgins, afterwards Mr. Higgins. But wherefore is not this redoubted Higgins indictment, or why did he not assail the great John of Tuam himself ? He



would not have shrunk from your persecution, but, with his mitre on his head and his crozier in his hand, he would have walked in his pontifical vestments into gaol, and smiled disdainfully upon you. But you did not dare to attack him, but fell on a poor Monaghan priest, who only attended one meeting, and only made one speech about the "Yellow Ford," for which you should not include him in a conspiracy, but should make him professor of rhetoric at Maynooth. Gentlemen, an enormous mass of speeches delivered by Mr. O'Connell within the last nine months has been laid before you. I think, however, you will come to the conclusion that they are nothing more than a repetition of the opinions which he expressed in 1810; and when you come to consider them in detail, you will, I am sure, be convinced that these speeches were not merely interspersed with reference to peace and order, with a view to escape from the law, but that there runs through the entire mass of thought that came from the mind of Mr. O'Connell a pervading love of order, and an unaffected sentiment of abhorrence for the employment of any other than loyal, constitutional, and pacific means for the attainment of his object. He attaches fully as much importance to the means as to the end. He declares that he would not purchase the repeal of the Union at the cost of one drop of blood. He announces that the moment the government calls upon him to disperse his meetings, these meetings shall be dispersed. He does but ask, "the Irish nation to back him; for from that backing he anticipates the only success to which, as a good subject, as a good citizen, and as a good Christian, he could aspire. But if, gentlemen, it be suggested that in popular harangues obedience to the laws and submission to authority are easily simulated, I think I may safely assert that the charges preferred against him his life affords the refutation. A man cannot wear the mask of loyalty for forty-four years; however skilfully constructed, the vizard will sometimes drop off, and the natural truculence of the conspirator must be disclosed. You may have heard many references made to the year 1798, and several stanzas of a long poem have been read to you, in order to fasten them on Mr. O'Connell. It was in 1798 that the celebrated man was called to the bar, who was destined to play the part conspicuous on the theatre of the world. He was in the bloom of youth—in the full flush of life—the blood bounded in his veins, and in frame full of vigour was embodied an equally elastic and athletic mind. He was in that season of life, when men are most disposed to high and daring adventure. He had come from those rocks and mountains of which a description so striking has appeared in the reports of the speeches which have been read to you. He had listened, as he says, to the great Atlantic, whose surge rolls unbroken from the coast of Labrador. He carried enthusiasm to romance; and of the impressions which great events are calculated to make upon minds like his, he was peculiarly susceptible. He was unwedded. He had given no hostages to the state.—The conservative affections had not tied their ligaments, tender, but indissoluble, about his heart. There was at that time an enterprise on foot; guilty and deeply guilty, indeed, but not wholly hopeless. The peaks that overhung the Bay of Bantry were visible from Iveragh. What part was taken in that dark adventure by this conspirator of sixty-nine? Curran was suspected; Grattan was suspected. Both were designated as

traitors unimpeached ; but on the name of Daniel O'Connell a conjecture never lighted. And can you bring yourselves to believe that the man who turned with abhorrence from the conjuration of 1798 would now, in an old age, which he himself has called not premature, engage] in an insane undertaking, in which his own life, and the lives of those who are dearer to him than himself, and the lives of hundreds of thousands of his countrymen, would, beyond all doubt, be sacrificed ? Can you bring yourselves to believe that he would blast all the laurels, which it is his boast to that he has won without the effusion of a single drop of blood ; that he would drench the land of his birth, of his affections, and of his redemption in a deluge of profitless blood, and that he would lay prostrate the great moral monument, which he has raised so high that it is visible from the remotest region of the world ? What he was in 1798 he is in 1844. Do you believe that the man who aimed at revolution would repudiate French assistance, and denounce the present dynasty of France ? Do you think that the man who aimed at revolution ; would hold forth to the detestation of the world the infamous slavery by which the great transatlantic republic, to her everlasting shame, permits herself to be degraded ? or, to come nearer home, do you think that the man who aimed at revolution would have indignantly repudiated the proffered junction with the English Chartists ? Had a combination been effected between the Chartists and the Repealers it would have been more than formidable. At the head of that combination in England was Mr. Feargus O'Connor, once the associate and friend of Daniel O'Connell. The entire of the lower orders in the North of England were enrolled in a powerful organization. A league between the Repealers and the Chartists might have been at once effected. Chartism uses its utmost and most clandestine efforts to find its way into this country. O'Connell detects and crushes it. Of the charges preferred against him, am I not right when I exclaim that his life contains the refutation. To the charge that Mr. O'Connell and his son conspired to excite animosity amongst her Majesty's subjects, the last observation that I have made to you is more peculiarly applicable. Gentlemen, Mr. O'Connell and his co-religionists have been made the objects of the fiercest and the coarsest vituperation ; and yet I defy the most acute and diligent scrutiny of the entire of the speeches put before you, to detect a single expression, one solitary phrase, which reflects in the remotest degree upon the Protestant religion. He has left all the contumely heaped upon the form of Christianity which he professes utterly unheeded, and the Protestant Operative Society has not provoked a retort ; and every angry disputant has, without any interposition on his part, been permitted to rush in "where angels fear to tread." Gentlemen, the religion of Mr. O'Connell teaches him two things—charity towards those who dissent from him in doctrine, and forgiveness of those who do him wrong. You recollect (it is from such incidents that we are enabled to judge of the characters and feelings of men)—you remember to have heard in the course of the evidence frequent reference made to poor old Sir Bradley King. The unfortunate man had been deprived of his office, and all compensation was denied him. He used to stand in the lobby of the House of Commons, the most desolate and hopeless looking man I ever saw. The only one of his old friends that stuck to him although was Baron

Lefroy. But Baron Lefroy had no interest with the government. Mr. O'Connell saw Bradley King, and took pity on him. Bradley King had been his fierce political, almost his personal antagonist. Mr. O'Connell went to Lord Althorpe, and obtained for Bradley King the compensation which had been refused him. I remembered having read a most striking letter addressed by Sir Abraham Bradley King to Mr. O'Connell, and asked him for it. He could not at first put his hand upon it; but while looking for it he told me that soon after the death of the old Dublin alderman an officer entered his study, and told him he was the son-in-law of Sir Abraham, who had, a short time before his death, called him to his bedside and said—"When I shall have been buried go to Daniel O'Connell and tell him that the last prayer of a grateful man was offered up for him, and that I implored heaven to avert every peril from his head." Mr. O'Connell found the letter—you will allow me to read it:—

"Barrett's Hotel, Spring Gardens, 4th Aug 1832.

"My dear Sir—The anxious wish for a satisfactory termination of my cause, which your continued and unwearied efforts for it have ever indicated, is at length accomplished; the vote of compensation passed last night.

"To Mr. Lefroy and yourself am I indebted for putting the case in the right light to my Lord Althorp, and for his lordship's consequent candid and straightforward act, in giving me my just dues, and thus restoring myself and family to competence, ease, and happiness.

"To you, sir, to whom I was early and long politically opposed—to you, who nobly forgetting this continued difference of opinion, and who rejecting every idea of party feeling or of party spirit, thought only of my distress, and sped to succour and support me, how can I express my gratitude? I cannot attempt it. The reward, I feel, is to be found only in your own breast, and I assure myself that the generous feeling of a noble mind will cheer you on to that prosperity and happiness which a discriminating Providence holds out to those who protect the helpless and sustain the falling.

"For such reward and happiness, to you and yours, my prayers shall be offered fervently. While the remainder of my days, passing, I trust, in tranquillity, by a complete retirement from public life, and in the bosom of my family, will constantly present to me the grateful recollection of one to whom I am mainly indebted for so desirable a closing of my life.—Believe me, my dear sir, with the greatest respect and truth, your faithful servant,

"ABRAHAM BRADLEY KING.

"To Daniel O'Connell, Esq., M.P."

You may deprive him of his liberty—you may shut him out from the face of nature—you may inter him in a dungeon, to which a ray of the sun never yet descended; but you never will take away from him the consciousness of having done a good and a noble action, and of being entitled to kneel down every night he sleeps, and to address to his Creator the divinest portion of our Redeemer's prayer. The man to whom that letter was addressed, and the son of the man to whom that letter was

addressed, are not guilty of the sanguinary intents which have been ascribed to them, and of this they put themselves upon their country. Rescue that phrase from its technicalities—let it no longer be a fictitious one; if we have lost our representation in the parliament, let us behold it in the jury-box; and that you participate in feelings of millions of your countrymen, let your verdict afford a proof. But it is not to Ireland that the aching solicitude with which the result of this trial is intently watched will be confined. There is not a great city in Europe in which, upon the day when the great intelligence shall be expected to arrive, men will not stop each other in the public way, and inquire whether twelve men upon their oaths have doomed to incarceration the man who gave liberty to Ireland?—Whatever may be your adjudication, he is prepared to meet it. He knows that the eyes of the world are upon him, and that posterity, whether in a gaol or out of it, will look back to him with admiration; he is almost indifferent to what may befall him, and is far more solicitous for others at this moment than for himself. But I, at the commencement of what I have said to you, I told you that I was not unmoved, and that many incidents of my political life, the strange alterations of fortune through which I have passed, came back upon me. But now the bare possibility at which I have glanced has, I acknowledge, almost unmanned me. Shall I, who stretch out to you in behalf of the son the hand whose fetters the father had struck off, live to cast my eyes upon that domicile of sorrow, in the vicinity of this great metropolis, and say, “’Tis there they have immured the Liberator of Ireland with his fondest and best beloved child?” No! it shall never be! You will not consign him to the spot to which the Attorney General invites you to surrender him. No. When the spring shall have come again, and the winter shall have passed—when the spring shall have come again, it is not through the windows of a prison house that the father of such a son, and the son of such a father, shall look upon those green hills on which the eyes of many a captive have gazed so wistfully in vain; but in their own mountain home again, they shall listen to the murmurs of the great Atlantic; they shall go forth and inhale the freshness of the morning air together; “they shall be free of mountain solitudes;” they will be encompassed with the loftiest images of liberty upon every side; and if time shall have stolen its suppleness from the father’s knee, or impaired the firmness of his tread, he shall lean on the child of her that watches over him from heaven, and shall look out from some high place far and wide into the island, whose greatness and whose glory shall be for ever associated with his name. In your love of justice—in your love of Ireland—in your love of honesty and fair play—I place my confidence. I ask you for an acquittal, not only for the sake of your country, but for your own. Upon the day when this trial shall have been brought to a termination, when, amidst the hush of public expectancy, in answer to the solemn interrogatory which shall be put to you by the officer of the court, you shall answer, “not guilty,” with what a transport will that glorious negative be welcomed! How will you be blest, adored, worshipped; and when retiring from this scene of excitement and of passion, you shall return to your own tranquil homes, how pleasurably will you look upon

your children, in the consciousness that you will have left them a patrimony of peace, by impressing upon the British cabinet, that some other measure besides a state prosecution is necessary for the pacification of your country.

At the conclusion of the right honourable and learned gentleman's speech,

The court suggested that, it being then so late (three o'clock,) it might be as well not to hear fresh counsel that day.

Mr. Moore, who was to address the court next in order of the traversers's counsel, said he felt very grateful for the kindness thus acceded to him by the court; if it was not trespassing too much on the public time and that of the court, he would feel it a respite not to be called on till Monday. If his lordship had not thrown out the suggestion he had been kind enough to make, he should have thought himself justified in asking such a favour. If their lordships thought they could consistently with the discharge of their public duty postpone the further hearing of the case till Monday, he should be most happy to avail himself of the indulgence.

The Lord Chief Justice said it was now three o'clock, and, without infringing unnecessarily on the public time, it would be the desire of the court to give Mr. Moore every indulgence in their power; and as he (Mr. Moore) felt he would rather not go on at present; but prefer waiting till Monday, as his speech, his lordship presumed, could not be finished that evening, the court, if the Attorney General had no objection, would let the case be postponed till Monday at ten o'clock.

The Attorney General having intimated his acquiescence in the course thus suggested, the court rose a few minutes after three o'clock, having adjourned till next morning at ten.

---

## TWELFTH DAY.

The Lord Chief Justice, Mr. Justice Burton, and Mr. Justice Ferrin, entered the court shortly after ten o'clock. On their lordships taking their seats, the Deputy Clerk of the Crown called over the names of the traversers and jury, all of whom answered, with the exception of Mr. Duffy who was unwell.

Mr. John O'Connell, one of the traversers, then rose, and, addressing the court, said—My Lord Chief Justice, I wish to make a few observations to the jury, if your lordship pleases. Something dropped from my counsel in his admirable speech on my behalf on Saturday, which, I fear, is calculated to create a serious misapprehension with regard to me. If your lordships will permit me, I shall not detain the court many moments; Gentlemen of the jury, I wish to say to you that, humble as I am, I have always been the advocate of a full, entire, and perfect right of the people of Ireland, to an independent legislature; therefore, I am not one of those whom my counsel spoke of as persons who would accept the occasional or even annual visit of the Imperial Parliament to Dublin. I do not know whether this may or may not prejudice me in your minds; but I would

infinitely prefer that it should prejudice me, than allow it to be supposed that I would, for a moment, compromise what I consider their alienable right of our country to an independent legislature (some sensation).

Mr. Moore, Q.C., then addressed the court and jury, and said in this case he was counsel on behalf of one of the traversers, the Rev. Thomas Tierney, and it now became his duty, as next counsel in seniority to his friend Mr. Sheil, and in that right and in that character alone, to lay before them the facts and the circumstances of his client's case. The facts and circumstances were such, that he, with very great respect, anticipated their verdict of acquittal in favor of his client. He very unfeignedly felt the great disadvantages he must labour under in having to address them after the able, brilliant, and eloquent display of his friend, Mr. Sheil; but if that disadvantage was to be merely personal, if it could not in the slightest degree affect his client, it would not be deserving of one moment's consideration. Although he was to acknowledge his perfect inability either to amuse them by wit, or to delight them by eloquence, as his learned friend had done—although he must acknowledge his inability to address them in any of those affecting appeals which he made to them—yet he did expect that they would extend to him, whilst he was laying before them the facts of his client's case, that same patience and that same attention which he had observed them invariably bestow upon every branch and upon every feature of this most important case. There was one observation which was made by the Attorney General in his opening statement in which he (Mr. Moore) fully concurred, and from which he thought no man could dissent. He told them that this was a most momentous case. He might have added, that it came before them under momentous circumstances, and in most momentous times; and certainly, when they considered the great and important question—he meant the repeal of the union—out of which this prosecution had undeniably arisen—when they considered the deep and all-pervading interest that that question had excited though every part of Ireland, from one end to the other—when they considered that hundreds of thousands, he might say, millions of their countrymen had unequivocally, but peaceably, expressed their opinion in favour of it—and when they considered that one of the traversers at the bar was a gentleman possessing the unlimited confidence of those millions of his countrymen, and exercising a greater degree of moral influence over the minds of his countrymen than any other man ever exercised in a free country—when they found that man brought to the bar of the court, and branded, or sought to be branded, with the crime of conspiracy—when they considered that in every part of this country there was the most feverish and restless anxiety felt as to the their verdict, the Attorney General might well say this was a momentous case. He could not concur with the Attorney General in thinking that the prosecution which he had instituted, and which was now before them, was one that either in its circumstances or in its consequences was calculated to allay that state of excitement which existed in the country. The Attorney General had not condescended to tell them what were his motives in instituting this prosecution. He had not explained to them what were the benefits which he expected to result from it. He, perhaps, may have told them that his object was to bring to justice persons whom he had

heard violated the law. If that were his motive, he (Mr. Moore) should presently show to him, and he hoped to the jury, that never was there a course less adapted to that purpose than the present prosecution. If the Attorney General expected that the result of this prosecution would allay the state of excitement at present existing in the country, never was there a more unfortunate expedient resorted to than the present prosecution. No man could shut his eyes to this fact, that, from the first to the last of this prosecution, from the conduct of the prosecutors, of the Attorney General himself, a greater degree of bitterness and animosity had never been exhibited in this country before. Was it the expectation of the Attorney General that the effect of this prosecution would be to put down the discussion of the question of repeal? Was that the hope or expectation of the government whom he served? If that be what he expected to result from prosecution, he (Mr. M.) must confess that, in his judgment, a more empty or a more idle chimera never crossed the mind of an Attorney General. The Attorney General had entered into an argument upon the repeal of the union; he (Mr. M.) did not mean to follow his example. He had held out to them what he considered to be strong grounds to show that it was impracticable. If the repeal of the union—that important question which now pervades every portion of this land—were so destitute of merits as the Attorney General wished to represent it to them—if it were so impracticable as he wished to represent it to them—that question did not want the aid of a prosecution to put it down: it must stand or fall by its own weakness. On the other hand, if that question had those merits which hundreds of thousands, nay, millions, of their countrymen were of opinion it did possess, how idle must be the hope or expectation by a prosecution to crush or put down the discussion of it. Upon that great question he meant to express or intimate no opinion of his own; but let the merits or demerits of it be what they might, he trusted that the time would never arrive when it would be in the power of any government, or any Attorney General, to crush or stifle the discussion—the free discussion—of any great public question. It appeared to him to be of the utmost importance in this case that the jury should very distinctly carry in their minds the nature of the charge that had been preferred against the traversers at the bar. That charge was confined to the single one of conspiracy. He begged of them to carry in their recollections that there was no indictment against any one of the traversers for having attended an unlawful meeting; that there was no indictment against any of the traversers for uttering seditious speeches; that there was no indictment against any one of the traversers for having sent forward seditious publications; but the single charge that was preferred against the traversers at the bar was, that they were guilty of a conspiracy. How was that charge sought to be made out? By the allegation that there were meetings held which were unlawful, which were attended by some of the traversers. By the allegation that seditious speeches were spoken by any of the traversers; or by the allegation that seditious speeches were published by any of the traversers. Did it not occur to them that if it was the object of the Attorney General to bring to justice persons for those offences, there was a most easy, a most simple, a most obvious and direct course for doing so. If the meetings, of which they had heard so much in detail, were unlawful now, they must have been

unlawful when they were held. If the speeches which were spoken were seditious now, they were seditious when they were spoken. How did it happen that though those meetings had been taking place for a period of nine months—though the speeches had been made during that period—how did it happen that the Attorney General had never yet ventured to prefer an indictment against any one of the traversers, or institute a prosecution against any one of them that he now told the jury were guilty? On the part of his client, in particular, and on behalf of all the traversers, he thought he had a strong reason to complain of the course which had been taken by the Attorney General in attempting to make one man responsible for the conduct of another. If he said those meetings were illegal, or the speeches seditious, what more easy course for him than to indict, for instance Mr. O'Connell? Suppose he had indicted him for attending an unlawful meeting, could anything be more easy or more simple? That Mr. O'Connell attended them was undeniable. The material facts of the case were ready to the hand of the Attorney General, and in this he could have brought the matter to an issue in a single moment. But had he (Mr. Moore) reason to complain on the part of his client as the course which had been taken by the Attorney General? He threw the entire body of the traversers into one indictment for conspiracy; and though it appeared in evidence that his (Mr. Moore's) client never was in connexion with any one of the traversers until the 3d October, after so many meetings which had taken place, yet it was sought by the proceeding in this case to make him responsible for all the acts which had been done antecedent to his joining them. He was sought to be visited with all the consequences of meetings at which he never attended—with the consequences of speeches which he never heard—and with publications which he never read. The Attorney General availed himself to the peculiar doctrine of the law of conspiracy, and he sought, contrary to the true principle of justice, to make one man responsible for other than his own acts. A person in the position of the Attorney General had no right to abandon the usual course of proceeding, and to adopt the tortuous one he had done. In his humble judgment the adoption of such a course was at once unfair, oppressive, and unjust. The Attorney General had taken up all the meetings according to their dates, and he went down to the latest of them; and he told them, in very emphatic language, that they were illegal. He read to them a number of speeches, which he said were illegal, and a number of articles from newspapers, which he likewise characterised as unlawful. Now, it appeared to him (Mr. Moore,) when the Attorney General was making that statement, that he was unconsciously and unwittingly pronouncing a severe censure not only upon himself, but upon the government which he serves. The meetings extended over a period of nine months; and if they were illegal, and the language used at them seditious, how could the Attorney General reconcile to himself his neglect of duty in not bringing to justice the parties so acting in violation of the law? Was his object, or was the object of the government, to lie by until they could collect a greater mass of criminals? It was the duty of the government to bring to justice those who violated the law; and if the Attorney General expressed to them his opinion that the parties holding those meetings were committing illegal acts, and that the speeches made at them were seditious; and that, after all this, the government designedly



lay by until they could get together a greater number of criminals—he would unhesitatingly say that they were guilty of an act of the greatest and most unparalleled baseness. Did he impute such a design to the government? Did he bring a charge of that description against them, although the course adopted by them exposed them to a charge of criminality? He made no such charge against them, he imputed to them no such design—he did not impute to the Attorney General any such nefarious intention, for nefarious he believed it would be. He never would believe that a government could be guilty of such unparalleled baseness. He knew the members of that government; he was personally acquainted with two of them; he knew their sense of honor and of justice, and he was sure that they would fling to the winds the high stations which they occupied before they could stoop to such baseness. Should a charge of the kind be made, he himself would be the first to vindicate their character. Neither did he charge them with negligence; their conduct might be attributed to another source. The conviction upon his own mind was this, that though the Attorney General had now “screwed up his courage to the sticking place,” and although he was now prepared to come into court and brand all those meeting, speeches, and articles with illegality, yet he was not prepared to encounter any of them single-handed. Why not test his doctrine upon the character of any single one of those meetings? Let him take that single question and try whether those meetings were unlawful? But he would not do that. He never was prepared to tell the government that the meetings were unlawful. If his mind had been irrevocably made up that the meetings were illegal, he would at once have said to the government, that, seeing the law violated in the holding of those meetings, he felt bound, in the discharge of his duty, to institute the necessary proceedings to put them down, and to bring down the offending parties to justice. But he never was prepared to sanction such a proceeding by the weight of his authority, and the meetings were allowed to go on for a period of nine months; and if the Attorney General was unable to bring himself to the conclusion to give that advice to the government—if it was a doubtful question in his mind; was he now to be allowed to come forward and to class all those proceedings together; to throw them before them in a heap, and to charge the whole mass with illegality? It appeared to him (Mr. Moore) that when they found a high public officer like the Attorney General abandoning the plain and obvious course in such a proceeding as this, and adopting a tortuous one, no jury ought to lend their aid to the carrying of it out. The Attorney General having gone through all the previous meetings, he came to the one which was to have been held at Clontarf on the 8th October; and he (Mr. Moore) must confess he never experienced a greater degree of surprise or astonishment than when he heard him tell the court and the jury that the meeting which was fixed for that day was abandoned from the conviction of its illegality. He was sure the Attorney General entertained that opinion or he would not have expressed it; but he (Mr. M.) believed there was no other individual in the community who was of the same opinion. Did the Attorney General forget, or did the people of this country forget, the extraordinary circumstances which occurred with respect to that meeting? Did he forget the breathless haste made by the Lord Lieutenant in

travelling from England over here a few days before the meeting was to have been held, and his unexpected and sudden arrival? Did he forget the far-famed proclamation that came out on the evening of the day preceding the meeting? Did he forget that on the morning of the 8th of October the garrison of Dublin was poured forth and led to Clontarf for the purpose of preventing any assemblage of the people? Did he forget that every precaution was taken by the authorities to disperse any meeting that might be held by means of the sword, the bayonet, and by artillery? And did he after this say that the meeting was abandoned from a conviction of its illegality? That was not the cause of its abandonment. He was not finding fault with the government for issuing the proclamation; he knew nothing of the circumstances which caused its being issued; but he was prepared to say that the abandonment of the meeting was not a conviction of its illegality. The abandonment of it was owing to the exertions of a gentleman, one of the traversers, caused by his strong feelings of justice and of humanity---feelings which he entertained as a just and honest citizen. He foresaw what might have happened had the military come into contact with the people, and he used every effort to prevent such an occurrence. Picture to themselves if, under the circumstances, the meeting had been attempted to be held, what would have taken place? They would have on the one hand the army of Great Britain in great numbers, under most experienced leaders, armed at every point, and ready to obey the orders of those leaders---and they would have, on the other hand, an unarmed and defenceless multitude; so that if, by any accident, there was the slightest approach to violence, a collision between the army and the people must have ensued, which would inevitably end in the slaughter of the people; and the plains of Clontarf, but for the exertions of Mr. O'Connell, would have been a second time saturated with human blood. He stopped it---not from a conviction of its illegality, but because he foresaw the frightful consequences which might have flowed from it; and he was entitled to a deep debt of gratitude for his conduct from the whole nation, and especially from the Attorney General himself. He hesitated not to say that if he were to select the act of Mr. O'Connell's life which in his humble judgment would be that which himself and every other friend of his would wish to go down to posterity, he would not select even Catholic emancipation---that great measure by which he restored millions of his countrymen to their rights; he would select that act, that conduct by which he prevented a collision between the military and the people at Clontarf, and thus saved, perhaps, the lives of his fellow creatures. Let him now for one moment call the attention of the court and the jury to what was the nature of the charges brought against the traversers. They were charged, in the language of the indictment, with combining, conspiracy, and confederating together for certain purposes. Now, a conspiracy, in point of law, was nothing more or less than this:---It was an engagement between two or more persons either to do an illegal act, or to do a legal act by illegal means. The very instant that agreement was entered into, the crime was complete. If men agreed to-day to do an illegal act to-morrow, they might be put on their trial for conspiracy the very hour or minute they made that agreement. It was not necessary that there should be any act.

## STATE TRIALS.

committed; and before they convicted Mr. Tierney, or any other of the traversers, they must be satisfied that they did enter into an agreement for purposes which were illegal. On the part of Mr. Tierney he controverted the fact altogether. He denied that any such agreement was entered into by the traversers, and he also disputed that if any such agreement or conspiracy did exist at all, which he did—he denied that they had before them one particle of evidence that Thomas Tierney was in any manner implicated in it. They had no evidence that an agreement of the kind referred to was ever entered into between those parties. He did not say it was necessary that they should have direct evidence of the fact; he acknowledged it might be made out without direct or positive testimony whether. The Attorney General had travelled over a period of nine months, during which time those meetings were held; but he had not told them at what time or in what place the alleged agreement of conspiracy was entered into; he had given no proof that a conspiracy ever existed at all. He extracted from speeches here and there a line of poetry, and then some prose, and he threw them all together in a mass, and called on the jury to select those portions of them which would be evidence of a conspiracy; but he (Mr. Moore) felt satisfied that they would not aid him in such a course, that they would not draw inferences from matter that was not clearly and distinctly laid down before them. Mr. Sheil had called their attention to the indictment in the case. He described it, as it might well be described, a “monster” indictment. He did not believe there was any precedent for it to be found in the records of any court. It well deserved to be handed down to posterity as the *Frauenstein* of the imagination of the Attorney General for Ireland. They had not heard the indictment read. He would not say it would not afford them any pleasure to hear it; but they might, in the discharge of their duty, think it necessary that it should be read before they pronounced their verdict. It would occupy many valuable hours in reading, and if it were read forty times over, he doubted whether they could recollect half of the multitude of statements which were compressed into it. Every person knew that the grand jury were occupied for several days in the discussion of it, and they ultimately found their bill; but it was notorious, because the matter was stated to count by one of them, that they were not unanimous in the finding of that bill. Though the duty of the grand jury was only a preliminary step in these proceedings, and though they were allowed to look only at one side of the case, yet they took several days to say that the indictment was, upon their oaths, even a fit case to be submitted to the consideration of a jury. There never existed a doctrine more dangerous or injurious than the doctrine of constructive crime. There was now an effort made to establish that doctrine, inasmuch as they were called upon to constitute a crime out of a mass of documents of different kinds, and to say, without anything approaching to proof of the fact, that there was an agreement to conspire entered into between the traversers at the bar. They could not do this—they could only act upon distinct evidence, and, as he said before, that had not been given. In the case of Hardy, in 1794, the charge was high treason, and the overt act that he was guilty of conspiracy; and the way in which it was proposed to substantiate his guilt was precisely similar to the course adopted on the present occasion. A multitude of papers with

which they sought to connect acts of his were laid before an English jury. No distinct or satisfactory proof of the conspiracy was given, and Hardy was acquitted. In the cases of Horne Tooke and Hunt, the jury came to the conclusion that it would not be acting with due regard to the lives, liberties, and rights of the parties to infer criminality on such slender grounds as those which were urged in these cases. Upon the part of the traversers he confidently but respectfully submitted that the jury were not warranted in finding that any conspiracy or agreement ever existed at all between the parties. If they would adopt that view, there would be an end of the case, and they would be bound to acquit the traversers; if not, he would come to the second branch of the case; and he unhesitatingly asserted that there was not the slightest ground contained in the evidence, upon which any fair, rational, or intelligent jury could say his client engaged in any conspiracy, if any such thing existed, which he entirely denied. His client, the Rev. Mr. Tierney, was a Roman Catholic clergyman, of the parish of Clontibret—a gentleman of most exemplary private character, who for a long time had filled the situation of Roman Catholic clergyman and no imputation could be cast upon his private character, either as a gentleman or a clergyman. It was also right for him to tell them what were his political opinions. He was a man of talent and reading. He had studied the history of Ireland. He had devoted his attention to the question of the union, and brought his own mind, whether right or wrong, to the firm, the honest, and the conscientious conviction, that the measure of the union was disastrous, not only to the independence, but the welfare and prosperity of his country. The question was not whether he was right or wrong; they might perhaps differ in that opinion—they, or some of them, might take a different view of the nature of the question relative to the union; but his client had come to the firm conscientious conviction that the union was an injurious measure, and should be repealed. He had a right to entertain his opinions; there was no special privilege in the act of parliament to exempt it from the liability of being objected to by her Majesty's subjects. It was an act which might be repealed; and his client had the most perfect, legal, and constitutional right to entertain the opinion he did, that the measure was injurious and ought to be repealed. He had a right to express that opinion, and no man could controvert that right. It was the constitutional right of every man in the community to express his opinion and advocate it if it were his honest deliberate opinion. He went further, and said that it was not only his right but his duty to do so; and no honest man or Irishman had a particle of regard for the welfare of his country who did not, if he brought his mind to the conscientious conviction that the measure of the union was injurious, use every legitimate effort in his power to advance what he considered to be beneficial for his country; and no man should hesitate for a moment if he believed the measure to be injurious, if he believed that on the altar of the union were sacrificed the independence and the welfare of Ireland, to exert himself in behalf of his country. They would not consider that he was discussing the question of repeal. He did not mean to offer any argument for or against the measure. It was not his province nor their province. He alluded to the topic for the simple purpose of convincing the jury of what he was

himself convinced---the honesty and sincerity of the traverser in entertaining the opinions which he had formed. The Attorney General felt it necessary, for the purposes of his case, to lay before them a ground to make them doubt, if they could, the sincerity of those who advocated the repeal of the union; and he did what was very frequently done on such occasions: he thought it right to endeavour to take from the traversers and their counsel a ground and line of argument to which he considered it likely they would resort; and accordingly, he told them that probably the counsel for the traversers would bring forward the opinions of high and eminent men who were hostile to the union---the opinions of such men as Charles Kendal Bushe, Lord Plunket, and Mr. Saurin. Why should not the traversers resort to such opinions? Where were the Irish people to seek wisdom, eloquence, and sound advice, if they were not to resort to such luminaries as those? He would not trouble them by reading the opinions of these illustrious men; Mr. Sheil read them on Saturday; but take up any one of the speeches delivered by them, consider the language used by them, and compare it with the addresses of any of the advocates of repeal at the present day, and they would find that, eloquent and strong as they were, they fell far short in strength of expression and beauty of language of the speeches spoken by those eminent men upon the same subject. The single paragraph which he would read was from the speech of Mr. Saurin. It was as follows:---“ You may make the union binding as a law, but you cannot make it obligatory upon conscience. It will be obeyed as long as England is strong, but resistance to it will be in the abstract a duty, and the exhibition of that resistance will be a mere question of prudence.” Take any one of the numerous speeches given in evidence, or any one of the many publications read, and they would not find in any one a proposition so strong in thought or language as that which he had quoted. He asked then had they any reason to doubt the sincerity of those eminent men? Did they doubt the sincerity of Chief Justice Bushe? He regretted, in common with every one who knew that distinguished judge, that he no longer was amongst them. He thought he might say, with truth, that the memory of Charles Kendal Bushe would ever remain enshrined in the hearts of the Irish people. Did they doubt the sincerity of Lord Plunket? Who ever doubted it? He rejoiced to say he was still amongst them, commanding and possessing as he ever did, the love, the respect, the reverence, the admiration of those who knew him. Did they doubt the sincerity of Mr. Saurin? They all heard the panegyric which Mr. Sheil, his political opponent, had passed upon him. “ He may have had faults (said he), but hypocrisy was not amongst them.” When they found these men---who were not enthusiastic boys, but men in the full enjoyment of their talents, placed at the top of their professions, holding seats in the legislature, and possessing a deep stake in the country---expressing such decided opinions against the union, all he asked of them was, did they doubt their sincerity? Could they doubt but they had strong and powerful reasons for the opinions they so expressed? and all he asked was, that they should consider that the reasons which influenced those eminent men to express the opinion they had done might exist now, and operate upon the mind of his client when he arrived at the conclusion that the

union was an injurious measure, and its repeal necessary for the salvation of the country. But the Attorney General went further. He endeavoured to convince them that the measure of repeal was impracticable, and unattainable. He knew of no effect which would have resulted from that line of argument, except to raise a doubt in the mind of the jury of the sincerity of those who advocated the measure. It would be monstrous to say that any measure, after what they had all seen in their own times, should be considered, no matter what difficulties interposed impracticable. How many measures, the difficulties of attaining which were apparently insuperable, had become the law of the land? They recollected the question of the slave trade—that practical evil which Mr. Pitt justly denounced as the greatest that ever had degraded or disgraced mankind. Yet that measure, supported as it was by his mighty talent, and by Mr. Fox, and recommended as it was by every feeling of humanity, took years upon years before its advocates were able to counteract the prejudices against it, and till it became the law. Did they forget the passing of Catholic emancipation? They knew the difficulties against which its supporters had to contend—the struggle which they had to encounter. Opinions were pronounced that the measure was impracticable and unattainable, yet the measure had become the law of the land. There was the still more recent measure of reform in parliament. They knew how long the supporters of the measure were struggling before they attained their object. Yet fit, too, had become the law of the land. Could they then doubt the sincerity of those who advocated repeal, even although they conceived that the difficulties in the way of the measure were insuperable? The Attorney General referred them to the opinions of eminent statesmen, and he never had expected to have heard the Attorney General refer for anything to the speeches of Lord Althorp and Lord J. Russell. However, their opinions suited him, and he used them; he also referred to the more congenial opinions of Sir Robert Peel and the Duke of Wellington. Every one of the four men was an eminent man and statesman. He thought every respect was to be paid to the opinions of such men, but he denied that any man or set of men were to be bound or controlled by the opinions of those persons, let them be what they might. Were the opinions of statesmen immutable? Were they not at liberty to change their opinions? He thought he might refer to one of those statesmen to show not only were the opinions of statesmen not immutable, but that they had frequently changed. They could not but recollect Sir Robert Peel—if they look back to the history of 1828, when the question of Catholic emancipation was brought under the consideration of the House of Commons—expressing a very unequivocal and decided opinion hostile to the measure. Did they doubt his sincerity upon that occasion? No, they could not; yet, before twelve months had expired the measure of Catholic emancipation—thus opposed, thus denied—became the law of the land, brought forward by Sir Robert Peel himself. Did he find any fault with Sir Robert Peel for having changed his opinion? No; quite the reverse. That act was the most glorious of his political life, and he deserved the greatest credit for it. That man was a sorry and wretched statesman who said that, because he at one time expressed certain opinions, those opinions were immutably

to bind him? In 1828 and the antecedent year he entertained an opinion contrary to emancipation; circumstances arose; many things combined to change that opinion—and, instead of evincing the pertinacity of a fool, he showed himself to be superior to prejudice—he changed his opinion and granted the measure. And would any man after that tell him that a repeal of the union was impracticable, or that the traversers in the case were not influenced by pure and conscientious motives? If they would believe that his client was conscientiously of opinion that the union was injurious and unjust to the country, he was sure they would be inclined to refer his conduct to an honest and a good motive, instead of a bad one. He would then come to the acts imputed to him. There were but two—the one, at the meeting of Clontibret on the 15th August, 1843; the second, for attending the Repeal Association on the 3d October, in the same year. He believed he was correct in saying that no act was imputed or attempted to be sustained against Mr. Tierney except upon those occasions; and if he was to be branded and convicted by their verdict for being a conspirator, it would be upon one or other or both of these grounds. Mr. Moore in continuation proceeded to say—Gentlemen, I will refer to them in order; but before I speak of the meeting of the 15th of August, I must advert to a portion of evidence that has been given with regard to a conversation alleged to have taken place between Mr. Tierney and M'Cann, who was produced as a witness. Gentlemen, that conversation is stated to have occurred on the 16th June, and I think it will be well for me to read what I believe to be a correct report of what the policeman said was the purport of it, begging you first of all to recollect the period when such conversation took place; namely, two months antecedent to the meeting. M'Cann told you he was a policeman, and that he received instruction to go to Mr. Tierney, to learn when the meeting was to be held; accordingly he went to Mr. Tierney, and obtained all the information that it was in that gentleman's power to afford; namely, that he did not know the precise day on which the meeting was to take place. Then we are told that M'Cann had a conversation with Mr. Tierney. M'Cann stated that "Mr. Tierney adverted to the union; that he stated it had been fraudulently carried. He said it was not binding; he represented it to be a concoction; that it was not binding on conscience. He spoke of the feeling that was becoming general amongst the army; he declared that the army was favourable to repeal, and partook of the enthusiasm of the people, and that it could not be so easily led to spill the blood of their fellow-men. I remember him speaking as to what the army had done." Now, gentlemen of the jury, I have to say, on the part and by the authority of Mr. Tierney, that he does most positively and absolutely deny that one single particle of that alleged conversation ever occurred between him and Mr. M'Cann. He acknowledges that Mr. M'Cann came to him to inquire as to the meeting, and that he gave him the information to which I have alluded; but that he had this conversation I have just read, he, I repeat, positively and unequivocally denies. Gentlemen, I certainly am not able to produce a witness to sustain the denial. Why am I not able to do so? Because, according to the testimony of M'Cann, there was no person present except himself and Mr. Tierney, and you know that I cannot produce my client. I have no

witness, but I am glad for the sake of truth and justice that I shall be able to correct M'Cann—from his own lips correct him—and to show that it is utterly impossible for you to give a particle of credid to the testimony he has given. In the first place, is it not improbable that if such a conversation occurred that a common policeman would have been able to recollect the words I have just read—that he would be able to detail to you the very language uttered? Have we not also another strong improbability? M'Cann is a policeman—he was not even one of the same persuasion as Mr Tierney—he went to that gentleman on business—he went dressed in his uniform. Now, is it likely—is it all probable—that a gentleman of rank and station, as Mr. Tierney unquestionably is, compared with M'Cann—that he would have held the conversation mentioned? This strikes my mind as to the highest degree improbable. I now beg leave to direct your attention to an important circumstance relating to this conversation. Can there be anything in the world more unsafe or mote dangerous than for juries to act on reports of alleged conversations taking place many months since? But am I not able to make you doubt that any such conversation ever took place at all? M'Cann told you that there was a diary kept; he told you that when he returned from the meeting he inserted in that diary an account respecting the meeting; but he told you that he never did insert in the diary, or take one note of a single portion of the alleged conversation and that he never referred to such conversation until he heard that he was to be called as a witness. Yet the man wants you to believe that because he ultimately inserted a part of the conversation—namely, that which related to meetings, and did not insert anything of that which is now brought forward as a matter of great importance, he asks you to believe that he carried in his recollection what occurred, and committed everything, aye, the very expressions to paper. Gentlemen of the jury, you will recollect that M'Cann said, “I remember him speaking as to what the army had done this day.” Gentlemen, the army has done a great deal in Spain in later periods—the army has abandoned, in Spain, the regular constituted authorities, and has, by its force, superseded them all, and set up another government; and the object of bringing forward this matter as to conversation was to endeavour to sustain that portion of the charge which imputes to the traversers the tampering with the army. Gentlemen, the conversation you will recollect, is alleged to have taken place on the 10th June. The first indication of a revolt, on the part of the army in Spain, occurred on the 11th of the same month in the town and city of Valencia. The first demonstration on the part of a portion of the army, did not take place until the 11th June; the material and next important demonstration on the part of the army did not take place in Barcelona till the day following—the important revolt in the army in Spain did not occur until the close of June; there was no account in this country, as will appear by a reference to the newspapers of the time, of any of the occurrences that had taken place until the 19th or 20th of the month. It was a matter of impossibility that on the 16th of June, a policeman in the county of Monaghan could have known what took place in Valencia on the 11th, and Barcelona on the 12th; therefore, I think I have a strong reason for contending that that conversation is nothing more than a fabrication on the part of the policeman—that he (the policeman)



had sense enough to be apprised of the obvious advantages of the prosecution, to connect one of the traversers with the affair relating to the army, and that he thought he could represent Mr. Tierney as speaking in terms of what should be denounced, and that he could make a jury believe that there was sure foundation for a charge of tampering with the army. If you will take the trouble to refer to the newspapers of the period, you will find no report as to the army before the 19th or 20th June; and yet you have this policeman telling you of events prior to that period. Gentlemen of the jury, I think I need waste no more time on this part of the case; I am sure you will agree with me that, independently of the danger of acting on a conversation of the description mentioned—independently of the probability pending on it—independent of the decisive and clear proof that no such conversation ever took place—I am sure, I say, that you will agree with me that I am not asking too much in begging you to dismiss from your mind altogether every thing relating to the untruly alleged conversation. I come now to the meeting at Clontibret, which took place on the 15th of August. Who are the persons that are produced to give you an account of what occurred at that meeting? The only witnesses are two policemen; you have heard from them that there were stipendiary magistrates present. Why, gentlemen, have not any of these magistrates come forward? Was it not the duty of the crown, if it wanted to represent to you that that meeting at Clontibret was illegal, why did not they produce those who were calculated to afford the best information relating to it? Though there were two stipendiary magistrates present, under the control of the Attorney General, although there was not a particle of difficulty in producing them if the government thought fit to give an account of the character of the meeting, two policemen are called, and the magistrates that were present are kept back. Gentlemen, I wish to ask no information of the crown. I know not what were their motives—I know not their reasons for withholding evidence; but I know I am justified in saying that if these magistrates could have deposed to a single act—to a single expression, or narrated one single circumstance that would have been calculated to stamp the meeting with illegality, the Attorney General would have called them. And all I want to draw from their non-production is this plain and simple inference, that the Attorney General found that if he had called the magistrates they would not in the slightest degree have supported the prosecution. Well, gentlemen, the meeting took place, and not one of the traversers, with the exception of Mr. Tierney, was present. You will recollect that. Not one iota or particle of connexion, up to the time the meeting was held, is shown between Mr. Tierney and any of the other traversers. Yet he is alleged to have entered into a conspiracy or agreement. Are there any grounds, I ask, for saying that the meeting was illegal? Was there any act of violence committed? Was there anything done that could show that meeting was an illegal assembly? Not the slightest riot or disturbance occurred. That which characterised all the other meetings, as appears by the evidence adduced characterised this. It was perfectly tranquil, perfectly peaceable—not a finger or a hand was raised; and the utmost that is alleged is, that some of the people were crushed, and among them the worthy policeman. Well, gentlemen, if

the existence of a crush is to be the ground—if that is to be the instance or means of attaching a charge of illegality, I confess that the Court of Queen's Bench have held most illegal meetings during the last fortnight (laughter)—for certainly there has been a very considerable degree of crushing; and though you, from your peculiar situation, have been guarded from it, there is no portion of the court, not even the judgment seat, that has not been invaded, and, perhaps, I might say crushed (great laughter)—by persons whom it has been found impossible to resist. The meeting was perfectly legal, perfectly tranquil—nothing in the shape of disturbance occurred—the magistrates present are not produced, and you are called on to say that there was illegality, and to connect my client with the charge of conspiracy. Is a man to be a conspirator because he attends a meeting for a repeal of the union? No man can contend for that proposition. In order to support the charge of conspiracy, it is necessary to prove that the meeting was illegal. I say, with the firmest confidence as to the truth of the proposition I am laying down, that government had not a single particle of evidence to show that that meeting at Clontibrit, on the 15th of August, was an illegal meeting. Gentlemen, I will tell you the object of the meeting. It was to adopt certain resolutions. The first resolution was this: "Resolved—That the legislative union was carried against the will of the Irish people, by every species of fraud, violence, and corruption." Look to the speeches of Lord Grey, and you will find exactly the same proposition. The learned counsel having read another resolution, which was adopted at the meeting, observed—I will now conclude this part of my case by referring to a petition of the people of Clontibret. It is to this effect—"That the Legislative Union having operated to our injury, we request your honorable house to repeal the said union." So that this meeting, this perfectly tranquil—perfectly peaceable meeting, having adopted resolutions, as they had an undoubted right to do, relating to the union, and having framed a petition to the legislature for repeal, you are now asked to draw an inference to the prejudice my client. I maintain that the meeting had a legal and constitutional right to do what they did, and I shall ever assert the same opinion until it is proved that I am in error. You are asked, I repeat, to draw an inference that my client was engaged in the wicked and unlawful act of conspiracy, he having consented to certain resolutions and to a certain petition. The next matter to which I have to refer relates to the repeal association. Mr. Tierney attended at a meeting of that association on the 3rd of October. Carry in your recollection that till that time you have no evidence that Mr. Tierney ever saw, knew, or communicated with any one of the other traversers joined with him in this indictment. It is not pretended or alleged that he was at any one of those meetings with respect to which evidence has been given—it is not pretended or alleged that he read, heard, or knew anything of the speeches and publications noticed; and for the first time he is connected with two or three traversers at the repeal association, on the 3rd October. Well, gentlemen, it is very true that he did. It is very true he became a member of the repeal association on the occasion referred to; and the Attorney General has wished you to believe that that is an illegal association. I do not know, gentlemen, whether it attracted your attention; but certainly I never shall forget

the withering and the concentrated sneer with which the Attorney General read the title of this association. When he spoke of the word 'loyal' the most withering sneer that could be conceived was thrown into his pronounciation; he meant to insinuate that the Loyal National Repeal Association is a disloyal illegal association. He durst not venture to say so in distinct terms, for he knew that he had no grounds for warranting him to say so; but he endeavoured to signify his contempt by a sneer that I shall never, I repeat, forget. I am not a member of the Repeal Association, perhaps I do not approve of the object they had in view; but I do repel with indignation any attempt to cast an imputation on it. Some of the wisest, noblest, and best men in Ireland, are members of that association---men eminent in character, eminent in rank, in talent, in virtue, in patriotism, are members of that association. They may be all wrong, but they certainly are not disloyal. Is the loyalty of a million of the Irish people to be sneered at by the Attorney General?---and is that sneer so potent as to lead you to brand that million of people as disloyal? I deny that there is anything disloyal in the association. How do I prove this? I resort to what even the Attorney General will acknowledge to be entitled to some weight---I resort to the authority of the Attorney General himself. The association has now been three years in existence; it has been sitting week after week, not in a concealed manner, it has been open to all who have thought it worth their while to pay the paltry sum of one shilling to become members; and the Attorney General never until now cast an imputation on such a body. Has he ever dared to take one step to put down this loyal association? He would not have refrained from putting it down if he could have done so. It may be very easy to cast a sneer, but it is a far different thing to establish before eminent judges of the land and a jury of our countrymen a ground for it. The Attorney General has not dared, during a period of three years, to institute a single proceeding to impeach the legality of the association. Is he now to be allowed to brand my client with the charge of conspiracy? Is my client to stand charged as a conspirator for the worst purposes, because, forsooth, he attended a meeting of an association which has subsisted for some time, which is subsisting at this hour, and against which the Attorney General has not instituted, will never dare to institute, any legal proceedings? Oh, but, says the Attorney General, Mr. Tierney has not only attended them but he handed in contributions. Why, gentlemen, it is very true, but is there anything illegal in that? Does the Attorney General mean to tell you that a man may not contribute to an association for a repeal of the union? If he lays down that as law, I do not, although he may impute ignorance to me, hesitate to assert that he could not legally sustain such a proposition. Gentlemen, you cannot be ignorant of the existence of similar associations in England. You cannot be ignorant of the existence of the Anti-Corn Law League. You must know, because it is a matter of history, that they have collected enormous contributions, amounting, I believe, to above a million of money; and has the Attorney General of England attempted to institute a prosecution against them? The Marquess of Westminster has lately written a letter to that body enclosing a contribution of 500l.; but we have never heard of his being prosecuted by the

English Attorney General. Perhaps I am wrong in suggesting a prosecution for such an act. The meeting of parliament approaches, and the Attorney General for Ireland must go there to discharge his parliamentary duty, and he will have an opportunity of communication with the English Attorney General. He owes to that distinguished legal functionary a deep debt of gratitude for the important assistance rendered on a late occasion, and an opportunity will be afforded to the Attorney General for Ireland of repaying that debt. He may instruct his English coadjutor in the law of hypocrisy—he may teach him how to sneer away the loyalty of a portion of his fellow-subjects; and when he has done so we may see a prosecution similar to the present instituted against the Marquess of Westminster and against the Anti-Corn Law League. You may see that noble Marquess placed at the bar charged like Mr. Tierney with attending meetings, and with giving in contributions. I confess that my client Mr. Tierney has attended meetings—I confess that he has handed in contributions—I confess that he has paid his wondrous shilling; but, oh! he made a speech, and that speech has been put on the record of this indictment, of course for the purpose, among other reasons, of handing down to posterity such a sublime specimen of eloquence. Now, gentlemen, I have read that speech very carefully, and I find it to contain a lengthened historical allusion to the parish in which Mr. Tierney lived. He appears to be deeply versed in the history of that parish; he had, as might naturally be expected, a deep interest in it; and no doubt, in his estimation, the parish of Clontibret stands as high as the fields of Blenheim and Waterloo (laughter). He then comes up to the association, and naturally falls into the besetting sin of Irishmen—an excessive desire for speechmaking. He displays his historic lore, dilates on the glories of Clontibret, and therefore says the Attorney General, he is a conspirator. These are the premises. It is alleged that he talks of words and deeds, of hands and hearts, and that therefore he means conspiracy. Why those are the ordinary expressions of a man who wishes to impress you with sincerity. You must know, gentlemen, that even on the most common occasion when a friend solicits for aid, there is nothing more natural than for it to be promised to him “hand and heart.” It is the common expression on such occasions. Oh, but, says the Attorney General, when he talked of deeds, he meant deeds of violence; and when he alluded to hands, he meant that they should be steeped in blood. What right has the Attorney General to attribute such motives, or to put such a construction on the words of my client? On the part of my client, I repel and repudiate such a construction. I deny that there was anything in his words to warrant such a deduction. It is not for you, gentlemen, or for me, to dive with certainty into the motives of the human mind; it is the Almighty alone, the great searcher of all hearts, who can with safety assign motives to an individual; but when he comes to judge of the motives of his fellow-man, he must look to his acts alone for their elucidation. I do most unhesitatingly lay these matters before you—I confidently appeal to the conduct and language of my client, and I say without hesitation that I shall be most grievously disappointed if any jury of my countrymen can come to a conclusion hostile to the interests of my client. I have now laid all the facts and circumstances of the case

before you ; and I am convinced that if your verdict be one of acquittal for my client, it will be such a one as you will be able to justify to your country now, and to your God hereafter.

Mr. Hatched, Q.C., then rose and said ; may it please your lordships and gentlemen of the jury—

Chief Justice—Whom do you appear for ?

Mr. Hatchell—I am counsel my lords, for Mr. Ray—Gentlemen of the jury, I consider, notwithstanding what you have heard from the able and eloquent counsel who have preceded me, and who have spoken to that case generally with respect to the charges that are made against them all, and particularly with respect to their own clients ; I consider myself bound, notwithstanding what you have heard with respect to the law and the facts of the case, still to address to you, on behalf of my client, a few observations. Gentlemen, I think you must feel that the ground has been pre-occupied ; that there can be very little, indeed, for me to add to the eloquent observations of my friend Mr. Sheil on the facts and law of the case, and the powerful and able observations of my friend Mr. Moore, on the general charge and circumstances under which the indictment has been preferred. Still, gentlemen of the jury, there are circumstances peculiar to the situation of each of the traversers which it is considered right should be laid before you, in judging of the share each of them appears to have been charged to have taken in those transactions, and to see if you can bring your mind, as fair, honest, and impartial jurors, to come to the conclusion that the criminal intent charged by the indictment that those traversers, and each of them, had joined in the pre-conceived plan of, I may say, overturning the government of the country. Gentlemen of the jury, my client, M. Ray, is peculiarly circumstanced in relation to this charge. He is the secretary of the Repeal Association. Before I call your attention to the charge, as contained in the indictment, and which you have to try, permit me to call your attention (although I believe it has been already closely drawn to the question by the counsel who preceded me) to the real, substantial question which you have to try. Permit me, before I do this, to remind you of what you have not to try. Gentlemen, you are not to try Mr. Thomas M. Ray, as has been already observed, for having attended an illegal assembly. He denies that any assembly with respect to which evidence was given before you on this trial, was illegal, and, if I had to defend him on that charge, I could do so. You are not to try whether Mr. Ray, at any one of those assemblies, at any time or place, uttered a seditious speech or published a seditious libel. If such a charge was preferred against him I am satisfied I could perfectly justify him from such a charge. He never published a libel in his life. He never uttered charge or accusation against man, or against the government. Gentlemen, you are not to try whether he be a Repealer or not. I must admit, that if you were to try him on that charge I could not defend him. He is and has been a Repealer, and is and has been the secretary of the Repeal Association for several years. He has been the secretary and paid officer of that Association since its institution. He became the officer, and salaried officer of it, approving of its objects, mixing himself up with its proceedings, in accordance with the principles which he professed, and to sustain his opinions on

that question of which you have heard so much. But, gentlemen, I consider that when you come to try the question with what intent Mr. Ray was a member of the association—with what intent he did the acts connected with that association—as to whether he was guilty of a criminal intent or entered into a preconcerted conspiracy—it is important to consider the position in which he stood and the relation which he bore towards that association. Gentlemen of the jury, I need not repeat to you again, and to implore you not to permit your minds to be diverted from, or your attention distracted, or the consideration of the real question attempted to be drawn from you. The question you have to try on your oath is, did Mr. Ray, in conjunction with all or any of the traversers, enter into a plan preconcerted, arranged, preconceived, as laid with the criminal intent of exciting disaffection against the government or constitution, and with the other criminal intents which are charged in the indictment. Gentlemen of the jury, it is a question peculiarly for you—the question of intent—with what intention those proceedings took place—what was the intention of the parties who committed or did the acts which are charged as evidence of that intention; it is your peculiar province to judge of that intent. The court, the judges who preside here, it is for them to say whether the acts given in evidence are acts that ought to go before you for your consideration; they are the judges of their illegality, or whether these facts shall go before you; but it is your sole and exclusive province and duty to decide this upon your oaths, what was the intention with which these persons interfered in those transactions? They were the actors, but what was the intention? Was it an innocent and legal intention, or the base and criminal intention which is charged in the indictment, to create disaffection towards the government and constitution of the country? Gentlemen of the jury, permit me, in furtherance of that view, to refer to the opinion of the eminent judges who charged the grand jury in the case of Mr. Thomas Hardy's trial. Lord Chief Justice Eyre, in calling the attention of the jury to the question they had to try, said—

Judge Burton—What do you take that from.

Mr. Hatchell—From the State Trials, vol. 24. Your lordship will find it in page 205. You are aware, gentlemen, from what has been already stated, that the objects of the societies of that day—the professed objects of the societies of that day—for being a member of which Hardy and Tooke were prosecuted—that there the indictment was for conspiracy in the nature of constructive treason. And in charging the grand jury in Hardy's case, Chief Justice Eyre said—“If there be ground to consider the professed purpose of any of these associations a reform of parliament as mere colour, and as a pretext held out in order to cover deeper designs—designs against the whole constitution and government of the country—the case of those embarked in such designs is that which I have already considered. Whether this be so or not is a mere matter of fact, as to which I shall only remind you that an inquiry into a charge of this nature, which undertakes to make out that the ostensible purpose is a mere veil under which is concealed a traitorous conspiracy, requires cool and deliberate consideration, and that the result should be perfectly clear and satisfactory. In the affairs of common life no man is perfectly justified in imputing to another person a meaning contrary to what he himself

expresses, but upon the fullest evidence " Gentlemen, no man has a right to impute to another that he is not intending what he professes to do, unless there is clear, satisfactory, and unambiguous evidence to show the contrary. Every man must be presumed to be acting according to his declared intentions until the contrary is proved. Every man is presumed by the law of the land to be innocent before his guilt is clearly established; and, as already observed to you by Mr. Moore, if there be a criminal intent alleged, and if there be a legal intent to which the acts of the party can be truly attributable, common justice---the spirit of the British law---requires that his acts should be attributed to the legal and innocent motive, and not by straining to criminal intent. Gentlemen of the jury, you have a right to go further, according to the spirit of the British law if it be questionable to what those motives are attributable, if there be doubt upon your minds in judging of the transaction, the parties accused are entitled to the benefit of such doubts, and their acts are to be attributed to honest and just motives, and not to criminal design. Now, gentlemen of the jury, you have heard with great force of expression, and great power of argument, an observation made to you already on the nature of this proceeding. It has been already characterised a "monster indictment" unprecedented in the annals of English justice or English injustice. No precedent can be found in the records of the law of England for such a proceeding as this, charging almost traitorous intentions against the parties---mixing them up in the transactions of nine months of their lives---fixing the acts of one upon the others---making each responsible for the acts of the whole, and combining those charges in a volume of overt acts---accusations which I say are unequalled in the history of the law. How is an individual to be competent to prepare himself for his defence against such multiplied accusations, for though they all tend to one, or two, or three charges of conspiracy, yet all the overt acts stated in this indictment are charged as illegal acts, to sustain the ultimate charge of conspiracy, with a criminal intention of assailing the state and constitution? Of the injustice of such a course of proceeding as in the present case has been adopted, you have heard much. You have been told that no precedent can be found for such a prosecution as the present. Gentlemen, there is but one case on record which bears any analogy to it, and that case is one which is a blot on English history, and one which has challenged the the indignant animadversion of all intelligent men who have ever considered it --- the case of Warren Hastings. When on occasion of Hardy's trial, Mr. Erskine, the eloquent advocate of the accused, came to speak of the indictment in that case (which falls fifty degrees short of the perplexity and injustice of the indictment on which the present traversers have been given in charge) he expressed himself in language of no common force. Lord Erskine, in page 190, of the "State Trials," expressed his sentiments upon such prosecutions as the present in no ordinary language. He began by quoting the sentiments of Lord Hale upon constructive treason, which are as follows:—"And third how dangerous it is by construction and analogy to make treason where the letter of the law has not done it, for such a method admits of no limits or bounds, but runs as far and as wide as the wit and invention of the accusers, and the detestation of persons accused will carry

men." Surely (continued Mr. Erskine) the admonition of this resplendent lawyer ought to sink deep into the heart of every judge and every jurymen who is called to administer justice under this statute, above all in the times and under the peculiar circumstances which assemble us in this place. Honourable men, feeling as they ought for the safety of government, and the tranquility of the country, and naturally indignant against those who are supposed to have brought them into peril, ought, for that very cause, to proceed with more abundant caution; but they should not be surprised by their resentments or their fears. They ought to advance in the judgments they form by slow and trembling steps—they ought even fall back and look at everything again lest a false light should deceive them, admitting no fact but on the foundation of clear and precise evidence, and deciding on no intention that does not result with equal clearness from the fact. This is the universal demand of justice in every case. How much more especially then in this when the judgment is every moment in danger of being swept away into the fathomless abyss of a thousand volumes, where there is no anchorage for the understanding—where no reach of thought can look round in order to compare their points—nor can any memory be capacious enough to retain even the imperfect relation that can be collected from them. Gentlemen, my mind is the more deeply affected with this consideration by a very recent example in that monstrous phenomenon which, under the name of a trial, has driven us out of Westminster Hall, for a large portion of my professional life.—No man is less disposed than I am to speak lightly of great state prosecutions, which bind to their duty those who have no other superiors, nor any other controul, least of all am I capable of even glancing a censure against those who have led to or conducted the impeachment, because I respect and love many of them, and know them to be the best and wisest men of the nation. I know them indeed so well as to be persuaded that could they have foreseen the vast field that was to open, and the length of time it was to occupy they never would have engaged in it; for I defy any man not enlightened by the divine Spirit to say with the precision and certainty of an English judge deciding upon evidence before him, that Mr. Hastings is guilty or not guilty; for who knows what is before him or what is not? Many have carried what they knew to their graves, and the living have lived long enough to forget it. Indeed, I pray to God that such another proceeding may never exist in England, because I consider it a dishonour to the constitution, and that it brings by its example, insecurity into the administration of justice. Every man in civilized society has a right to hold his life, liberty, and reputation under plain laws that can be well understood, and is entitled to have some *limited specific* part of his conduct compared and examined by their standard, and that he ought not for seven years, no, nor for seven days, to stand as a criminal before the highest tribunal until judgment is bewildered and confounded, to come at last, perhaps to defend himself broken down by fatigue, and dispirited with anxiety." Such was the language of the acute and impassioned Erskine in comparing the proceedings in Hardy's case with the proceedings which had been instituted against Warren Hastings, and yet, I have no hesitation in averring that in Hardy's case the parties charged were few, and the circumstances were few as compared with the



number of the accused, and the abundance of the accusations in the present unprecedented prosecution. How monstrous is the injustice to which my client has been made a victim, in being called upon to become responsible for the words and actions of other men beside himself during the period of seven months. Gentlemen, the task is indeed arduous which the crown has imposed upon you. You are called upon to jump at the conclusion, but everything that my client did in his capacity of paid officer to the society was done, not in the conscientious discharge of his duties as a paid servant, but with a criminal intent to pervert the law and injure the constitution of the country. That you are sworn to try—at that conclusion you are required to arrive. Gentlemen, I feel embarrassed in addressing you; I confess that I am adverse to going over the same ground that Mr. Moore has traversed in his eloquent remarks, for I am apprehensive that a repetition of the same topics by me, instead of being of value to you or to my client, would rather have the effect of weakening the impression that must have been produced upon your minds by the admirable speech of my learned friend. But I cannot avoid offering a few remarks to which I would fain attract your most serious attention in reference to the particular case of my client, Mr. Ray. Gentlemen, look at the position in which my client is placed, and have regard to the circumstances by which his particular case is characterized. Gentlemen, Mr. Ray is an humble man with a large family, who look to him alone for support. He has no other pursuits than those which are connected with his avocations in office. He was made secretary to the Repeal Association on its formation in the year 1840, and from the day of his appointment to the present hour his time and attention have been totally engaged by the discharge of the duties incidental to his situation. He has not given me the slightest instructions to say that the Repeal movement did not enlist his good wishes in its favour—or that he did not, to the fullest extent, sympathise with the leaders of the agitation; but what he did, he did in the discharge of the duties connected with his official character—what he did, he did in compensation for his salary as in duty bound—and yet, gentlemen, you are called upon to view him in the light of a conspirator, and you are told to attribute every act of his—which he has performed in requital for his emoluments—as an act planned and achieved with the design of subverting the law and the constitution. If the association were an illegal society, and if it had been characterised as such by the crown, then indeed my client might fairly have been made responsible for all his actions in the capacity of secretary; but no such doctrine as this has been ever propounded—nobody has presumed to say that the association is illegal—nobody could say that it was illegal. You find my client, Mr. Ray, on principle, no doubt, a repealer, and incidentally a member of the association; but you also have distinct evidence to show that he is the paid officer of a perfectly legal association. Such is the character in which he truly appears before you. You find him discharging the routine duties of his office, and yet you are called upon to say that his acts are not to be attributed to the due discharge of his duties—are not to be viewed as the deeds of a paid servant who is anxious to give value for his salary, but that they are rather to be attributed to a fell purpose existing in his mind to outrage the laws and trample on the constitution! You are called upon by the crown to view his case in this

artificial light. You are called upon to come to this conclusion, but as honest men—as intelligent men—as men who love justice, and prize the independence of the mind—I ask you, can you come to that conclusion? In my humble judgment it was a monstrous thing to include Mr. Ray in this indictment. He ought never to have been included in the present charge; and I cannot forbear from expressing it as my opinion that the crown, in having proceeded against him, have not pursued a candid, ingenuous course either towards him or towards the other traversers. They have indicted the members of a certain society for a criminal conspiracy, and they have included in the indictment Mr. Ray, the salaried servant of the association. I will not apply hard names to this proceeding—I will not go so far as to say that they were guilty of a dishonest intention, or that they could be capable of the common paltry pettifogging manœuvre of cutting the ground from under the feet of the accused parties, by including the witnesses in the indictment. I do not mean to impute any unworthy motive to my friend, the Attorney General, but I am surely at liberty to call your attention to the disastrous effect which results to the rest of the traversers from the circumstance of my client being included in the indictment. While I repudiate the idea of attributing an unworthy motive to any quarter, I am surely at liberty to demonstrate now the effect of such a proceeding as has been adopted is exactly similar to that which would have resulted if the paltry manœuvre to which I have alluded had indeed been deliberately had recourse to. By including Mr. Ray in the indictment they have deprived the other traversers of the benefit of his evidence. He was the acknowledged officer of the society—he had in his possession the authenticated books and documents of the society, written in his own hand writing—he knew the working and machinery, so to speak, of the society, and was the only man competent in law to prove the honest and perfectly legal intentions of its members. He could have proved their objects—he could have clearly demonstrated the means that were resorted to by them for the constitutional purpose of procuring the repeal of a statute which they conscientiously believed was a grievance to their country—all this he could have made as clear as the sun light; but he (the man who was in a position to prove all this) had been silenced and was incapacitated from acting as a witness by being included in the indictment. The crown might have brought Mr. Ray upon the table—they might have called for his books and examined the man who made the entries, and thus have furnished themselves with primary evidence of the most authentic character; but this they had not done, and they were accordingly obliged to avail themselves of the ordinary newspaper reports, which did not publish all the transactions of the meetings, but only such of them as appeared at the time of public interest. They thus were obliged to resort to a species of secondary evidence, and in order to make that evidence admissible they were obliged to have recourse to the left-handed management of including in the indictment the editors of the different newspapers in which these reports were published. What was the course taken at the trial of Horne Tooke? Who was the Attorney General of England in that day? the late Lord Eldon, then Mr. Scott. Who was the Solicitor General of that day? the late Lord Redesdale, subsequently Lord Chancellor of Ireland, then Mr. Metford. How did they proceed against

Horne Tooke and the other members of those associations which it was the object of those prosecutions to put down? Who was the first witness examined against Horne Tooke? Daniel Adams, who was sworn and examined by the counsel for the crown. And what does he prove? that he was secretary of this society or association—that held that office for ten years—that he made the entries in the books. But the crown may say to us here—"Oh! do you expect we should call a co-conspirator? do you expect that we should give to your counsel the benefit of his cross-examination?" Gentlemen, I hold it to be a principle—a high, a noble, and inherent principle—of a crown prosecution, and more particularly, if a state prosecution, I hold it to be the duty of those who manage it not to discriminate, to judge, to calculate, to criticise in what way the evidence may be likely to affect those who are to be prosecuted; but it is the duty of the crown to call all those witnesses who can depose to facts appertaining to the prosecution, and then to give the traversers the benefit of their cross-examination. Mr. Ray is included in this indictment; he cannot be a witness at all; I cannot call him for himself; the other traversers cannot examine him on their behalf. In Horne Tooke's case the crown did not indict the secretary; he was the first witness to prove the objects, the intent, and the tendency of the association. Horne Tooke was entitled to the cross-examination of the witness produced by the crown; he had the secretary of the society on the table to interrogate him as to the intent and objects of it. One of his questions was, "Were the members armed with pikes or muskets? No. Did you ever hear anything said in the society about pikes or muskets? No, never in my life. Was there such a thing as a secret committee there? Never. Was not every thing conducted openly and publicly? Yes. Was there anything ever took place which could lead you to believe that the members intended to depose or kill the king? Oh, no, never." Would I not, gentlemen, have been entitled to ask Mr. Ray if he was a witness on the table, "Had you any reason to suppose that the members of the Loyal National Repeal Association intended to excite disaffection towards the government, or to corrupt the army, to affect the administration of justice, or to overthrow the government?" Why have we not the opportunity of asking those questions, which we might have done if we had the benefit of his testimony. Such was the course that was taken when those prosecutions were being carried on in England, at a time when the armies of France were sweeping the continent of Europe, and when there were great dissensions at home among the people of England. The Attorney General and Solicitor General of that day put the secretary of the association upon the table in order that he might prove the facts—in order that the truth might be ascertained—the truth prevailed, and Horne Tooke was acquitted. What more questions were put to him. "What did you think was the object or intention of the greater part of the members of that association? To obtain parliamentary reform." "Do you think there were many among them who meant more than what they said? I do not—I believe they meant what they said." Gentlemen of the jury, I will not go further with this examination. Observe its application to the case of my client, the secretary of the repeal association, who discharged his official duties in the ordinary way that the officer of any public society was bound to do?

Why is he included in this indictment, or why is he now called upon, after having been permitted for seven months past to go on discharging the duties of his situation, to answer here as a conspirator—as one responsible for all the acts, speeches, and publications of which you have heard so much? Can you on your oaths, as honest and honourable men, say, in the face of the country, that Ray, the official of a legal, a recognised association, did not discharge his duties as secretary, in accordance with the directions of those by whom he was employed; but that he exceeded his instructions, and combined in doing all those overt acts which form the charge of conspiracy against him. You are called upon to say he did not do these things with the intention of discharging his duty, consistently with his principles; but that he was engaged in a pre-concerted plot—in a settled conspiracy formed between those gentlemen, for you are to swear upon your oath that you believed such to have been his intent before you can give a verdict against him, and I am to get your answer to that plain question out of your jury box. Gentlemen of the jury, it may be said that Mr. Ray went beyond the regular course of his duty; it may be said that he did not confine himself to attending the regular meetings of the association in his capacity of secretary. Gentlemen, I am ready to admit, on the part of Mr. Ray, that wherever there was a meeting of the association, as of the association itself, he attended and officiated there as secretary, and that gets rid of all question upon the indictment upon that head. But it may be alleged that he was present at Tara and at Mullaghmast. Now, on that subject I have ascertained the fact, that those were the only two country meetings at which he was ever present. The meeting at Tara took place the 15th of August; it was I believe chiefly an assemblage of persons from that immediate neighbourhood; but a considerable portion of them were from the county and city of Dublin, many attracted there from curiosity, and many more of course from an identity of feeling with the object for which it was convened, and from a wish to give expression to their feelings on the question of Repeal. Thousands went out there in carriages, gigs, and cars to see what took place on the 15th of August at the hall of Tara. I don't know whether you are aware of it, but I believe the fact is notorious, that from the number of persons who were going out of Dublin that day, it was regarded as a species of holiday through the city. Mr. Ray went there with his family, with the females of his family, and in company with the members of another gentlemen's family, of whom one or two were females. He did nothing there; he made no speech there; he did not act as secretary to that meeting, and taking that fact alone, you might as well have included every other person who attended there as Mr. Ray. There can be no doubt but thousands went there from a mere feeling of curiosity. However, we now find Mr. Ray at Tara, and as far as I can see, with respect to Mr. Ray as a traverser, on that head I have nothing requiring me to justify on his part. He may have gone there with a sympathy for the objects of the meeting; but does that attach to him the character of a conspirator. I shall not go into any of the particulars of that meeting, for its peaceable character has been deposed to by the magistrates and policemen who were present—they have told you that there was no riot, no breach of the peace, and no tendency to anything like it there.

To be sure Captain Despard was examined, but what was his evidence? Why was it given? I will tell you: it was in order to give a certain colouring to this case—a colouring of illegality to that great meeting, and that you might draw inferences from the evidence after obtaining a colouring for it. Well, then, Walker was examined, and what did he prove? That he saw people walking, heard bands playing, and saw a few flags or bannets, and that was all he saw. Was there anything illegal in that? Walker was examined by the crown on all that he was supposed to know. Well, Captain Despard, who, it would be recollected, had no great regard or esteem for Mr. O'Connell—for what reason, I suppose, he knows best himself—but it was quite clear that, from his manner and evidence, he had a very strong feeling against Mr. O'Connell and the meeting. This Captain Despard, comes from Trim, and he swears he heard the people "Keep the step!" I asked him did they keep the step, and he said they did not. I must here remark that every policeman who was examined did, either by design or accident, endeavoured in the strongest manner to give a colouring, which they were not warranted in giving, to the whole character of the proceedings. Captain Despard said the people came in marching order to the meeting, and by that word he wanted to impress something on your minds relative to military array. He was obliged to admit that the people did not keep the step, nor did they know how to keep it. He was a military man, and at once committed himself in his anxiety to colour the case, and give a turn to the whole proceedings, which were totally different from the facts. It was most disingenuous in Despard to use a military term for the purpose of throwing it into your box; but, at the same time, it only proves the nature of his temper, and the bias of his mind, and his partisanship on the subject. I will ask are men to be branded with being foul conspirators—are their lives, liberties, and fortunes to be at stake in consequence of such evidence as this that I have shown you? The gallant Captain Despard and Major Westenra were taken for foreigners, "because" says the Captain, "Major Westenra, had a moustache, and I had a curl in my lip" (laughter). Well, he gets into a conversation with some lump of a fellow from Stoneybatter, or thereabouts, who was waiting to see Mr. O'Connell pass, and because of this conversation the meeting was stigmatised as illegal. The man told him he came from Wexford, and therefore the meeting was illegal, and the traversers guilty of a foul conspiracy (laughter). This alledged conversation could have been sustained by other evidence, but I think the Attorney General knew nothing about it when he opened the case, or if he did I think he did well to leave it out and not contaminate his case, with such trash as I allude to. The Attorney General did not allude to 2,000 Shilmalier men who marched to Tara. Oh, no, he knew it would be really too farcical to do so. The conversation to which he referred, if ever such took place at all, must be treated as a joke or a humbugging conversation between Captain Despard and the countryman. Walker was examined before Captain Despard, and it was said also that he was near him when the conversation took place, yet Walker said not a word about it, as it was too equivocal. Oh! but the 2,000 Wexford men could not be forgotten by Captain Despard. That was done for a purpose to give a colouring to the case; and well the other side know that. Why was not Walker

asked about it? He might have corroborated the story, whether it was spoken in jest or earnest. It was disgraceful to bring such a case as that forward, in order to sustain the prosecution. Why was not Westenra produced to corroborate the story? He was not. And well the Attorney-General knew it would have been a disparagement of the case to introduce such an episode into his opening statement.—I will not make many remarks as to the other meetings, because Mr. Ray attended only at Tara and Mullaghmast, and I will leave them to other hands. Why do I mention those things but to show that you ought to come coolly to the consideration of this awful case, as I am convinced you will. I would not have mentioned the facts related here, but if I left them untouched it would be giving them a weight which they are not entitled to, and which they do not possess, and a different construction might be put on them. The learned gentleman then proceeded to read the evidence of Mr. Despard as follows: “Walker was in coloured clothes; Westenra was there also and is alive at present as far as I know; a man asked him to take off his hat for O’Connell; he was surprised when he heard of the 2,000 Wexford men; and when I asked him did he believe the man, his answer was, ‘I had only his word for it.’” I ask, is that evidence in this case? There was the case made by Despard of the great treasonable design concocted against the peace of the country, because he met a man who told him he came with 2,000 men from Wexford? The only other meeting at which Mr. Ray attended was that at Mullaghmast. He went there, not in his capacity as secretary to the association, but on an invitation which was conveyed to him from the committee. He was at the dinner which took place in the evening; and that was the only place in the whole history of the transaction that Mr. Ray made a speech or said a word. Well, let us see under what circumstances he went there, and made the speech. Everything done at that dinner was given in evidence and that speech of Mr. Ray. In the course of the evening certain toasts were proposed, and amongst the rest was the Loyal National Repeal Association, Mr. Ray spoke to the toast, but how? Did he volunteer to speak?—No; he did not; he was called on to reply to the toast as the secretary of the association, and he made some observations on the occasion, but of so little importance were those observations that they were forgotten. The speech was not reported in any newspaper—it was merely stated that Mr. Ray returned thanks on the part of the association, and that was the only time in the history of the whole transaction that Mr. Ray made a speech. In speaking of the meeting at Mullaghmast, I think this is the time to make a few observations with regard to something which occurred at that meeting; and my client complains of being made a party to what occurred there; but what was the first resolution moved the meeting, which is one of the overt acts laid as disclosing the criminal intents of the parties to excite disaffection among her Majesty’s subjects. (The learned gentleman here read the first and second resolutions agreed to at the meeting.) You have had a great deal of evidence laid before you as to the numerous assemblage of persons who came together at Mullaghmast, but though numerous, it was proved that this meeting, like the others, was peaceable and orderly, and that there was not the slightest tendency to commit a breach of the peace. But it was deemed necessary, as in the case of Tara, to get some species

of evidence reflecting on the character of the meeting, and on the designs and objects of those who were assembled there. I call attention to the fact, because it is one which, I regret to say, discloses a management which ought to be absent from a trial of this description when everything should be above board and all brought forward. What do I allude to? I allude to the catch-penny ballad or placard published and printed by a person named Hanvey, whom it was the bounden duty of the crown to have produced. If it were a case of common assault, where there might be a struggle for a forty-shilling verdict to carry costs, I would understand why he was not produced, but in a crown prosecution, and particularly in a state crown prosecution, I deny that he ought to be kept back. When the Attorney General opened this case, he said that seditious, infamous, and disgraceful publications were circulated by thousands, and tens of thousands for the purpose of exciting one nation against the other, and called on you to infer that the traversers fabricated the document, and had it circulated. Why should not the Attorney General produce the person who circulated or sold them, that we might ascertain where he got them, and who paid for them? We objected to the document, we thought it unjust to be produced in evidence on a conspiracy, when it was sought to make each conspirator responsible for the acts of his co-conspirators. Was it to be endured that such a document, circulated by this person, whose character was blackened as a vender of seditious publications, which were circulated in the outskirts of the meeting, for the profit and hire, should be received in evidence, and the person himself not produced. Mr. Brown, who was the regular and recognized printer of the association, who printed the instructions for the Repeal Wardens, and a variety of documents for which he were paid. The crown had the benefit of his evidence; but why did the Attorney General close his case, having this document in his possession, without calling the person who printed it to show how he got it; whether the printer was a member of the association, or who paid for them. Yet the Attorney General calls on you to assume, to infer, and presume, that he was a member of the association. If the object of the crown was to arrive at the truth, it was their bounden duty to produce this vender of seditious publications. Do you think that Mr. Kemmis, the respectable solicitor for the crown, than whom no man discharges his duty more faithfully and more respectably, was not instructed as to who he was and what he was? Why, I again repeat, was not this vender of sedition produced? He could have told us whether he was a member of the association, or from what old history he drew his tale of horror. Every one knows that even at the assizes such songs and publications were sold by wretched paupers at the corners of the streets. He knew that the Attorney General would not have suggested any course that should have the effect of making the traversers fall into a trap, or one by which they would be compelled to call a witness, of whom the traversers knew nothing, and of whom the crown might possibly know much. He would not—he could not impute to the Attorney General such a course of proceeding. He believed him to be utterly incapable of it, and in that opinion he should only be shaken, if he should find, (and which he would regret to the last hour of his life) that the Solicitor General should insist in his reply, that the traversers ought to call as their witness this vender of sedition. Mr.

Moore had observed to them the principles on which a British jury would decide this case. We can all understand that an indictment for conspiracy might be justifiable, or the only proceeding by which individuals could be punished in certain cases. In proceeding against private individuals for doing a private wrong, it might be necessary to indict persons for a conspiracy. Two persons might conspire to rob a man of his property, and in such a case the concert of their acts might be taken as the only evidence of their conspiracy. Men might be charged with offences of another character, and an indictment for conspiracy might here too be the only remedy. But the law of the constitution looked with jealousy on the doctrine of conspiracy being resorted to as a political instrument in a state prosecution; and I again repeat that it becomes a still more obnoxious proceeding—one to be discarded and scouted from a court of justice, when an indictment is founded on three hundred separate acts. The learned gentleman then cited the case of Henry Hunt, before referred to; it was an indictment against Hunt and nine others, on several counts, for a conspiracy to disturb the peace and tranquillity of the country, and to excite discontent, disaffection, and hatred among his Majesty's subjects.

Chief Justice—Where is the case cited from?

Mr. Hatchell—From 3 Barnwell and Alderson, 536. The fourth count of that indictment was for their attending an unlawful assembly. It is stated that bodies of persons attending the meeting at Manchester appeared in military array, with the step and movement of a military march. This might, perhaps, account for the anxiety of some of the witnesses in this case to prove the military character of the processions at some of the meetings; it was in order to bring them within the principle of this case against Mr. Hunt and his companions. The result of this trial was, that five were convicted and five were acquitted, though the object of the crown was to get them all convicted of the conspiracy. How did they escape the meshes of the net? Because the jury took it for granted that the conduct of the five convicted men ought to be visited on themselves alone; and they were not satisfied that any preconceived plan of conspiracy was proved out of subsequent transactions; and these five were convicted, not for conspiracy but for attending an illegal assembly. The jury repudiated, as dangerous to the constitution, this indicting for conspiracy. Then why was there not a count in this indictment against the traversers for attending an illegal meeting? Gentlemen, the case is either “neck or nothing” for the crown; it wants a conviction for a conspiracy, and therefore it would not insert a count for attending an unlawful assembly; it thought that if you had that alternative you would only find those guilty under that count who did attend such meetings, and acquit them of the charge of conspiring, and that would not answer the objects of this state prosecution. There is another case which shows the same spirit in a British jury. It was that of the Queen v. Drinkwater and others, reported in Carrington and Payne. This, too, was a charge of conspiracy to disturb the peace, and create discontent and disaffection; the jury rejected the counts of conspiracy; yet, at the meetings in this case, the people were told, if any policeman should dare to interfere with you, break his head. How different was the conduct at all the meetings held by the traversers? A Mr. Vincent made use of the following words :—“ To your



tents O Israel." It was not for him to put any construction upon those words. They seemed to be a favourite quotation, and were mentioned by Mr. Shiel as having been used by another party on another occasion. In another speech on another occasion Mr. Vincent also said—"One heart and one blow; death to the privileged orders, and up with the government which the people have established." This was the language then before the jury, yet they were not of opinion that the acts of the accused were to be attributed to any preconceived plan or conspiracy, but arose at the moment out of the proceedings of the meeting. They believed that the meeting was illegal. They acquitted them of the conspiracy, and found them guilty only of attending the unlawful assembly. I now come back to Mr. Ray, and on his part I state and call on you to go with me, that there is no act of conspiracy, to be attributed to him in any part of this charge. His object was a legitimate object; and, independently of that, Mr. Ray, attended the meetings at the Corn-Exchange as the secretary of the association; and I call on you, as honourable men, to say, whether you can reconcile it to your consciences, or say on your oaths, whether in what he said, or in the character in which he appeared, there was anything of the criminal character in which he appeared, there was anything of the criminal intention ascribed to him in the indictment. He would not have discharged the duty he owed to himself and to his country—he would not have asserted the principles he avowed and entertained, nor have fulfilled his duty as the servant of the association, had he acted otherwise. All this must therefore be taken into consideration in finding your verdict, and that verdict, I trust, will be one for acquittal for my client.

The court adjourned till next day.

---

### THIRTEENTH DAY.

Their lordships took their seats at the usual hour.

Mr. Fitzgibbon, Q.C., proceeded to address the jury. He said—If it please your lordships, gentlemen, in this case---on this, the beginning of the fourteenth day of this trial---the duty falls upon me of addressing you on behalf of one of the traversers, Dr. Gray. From the course adopted by the crown, in thus uniting eight individuals, and putting them together on their trial, it necessarily results that each of those individuals, having the privilege of making a separate defence, must be heard by his own counsel. But from the evidence that has been laid before you, and from the nature of this case, it is plain that it is impossible to separate the cases of those defendants, and impossible to make, with any effect, an individual and distinct case for each. It is too plain that this must be dealt with as one case. It is a charge for a joint offence---it is a charge for an offence that cannot be committed by a single person---it is a charge for an offence in its very nature involving the necessity of more than one criminal, if any there be at all. I therefore, gentlemen, do not intend, nor is it at all the instruction of my client that I should intend, to separate the case of Dr. Gray from that of the other traversers. Gentlemen, you will observe that this is a charge against those eight defendants, that they unlawfully,

and maliciously, and criminally conspired together. That seems in its nature to be rather a simple charge. The single fact of conspiring--- you have been told by the Attorney General, and it is the law--- the single fact of conspiring constitutes the entire crime. Gentlemen, the crime being thus really simple, it seems rather a strange thing that it should take a speech of eleven hours to explain, and evidence occupying eight days---not eight days in examining witnesses, but eight days in solid reading of document to prove the crime. You will find that somewhere between forty and fifty hours of the time of this trial has been spent in reading the evidence. The speech being such, and the evidence being such, where is the man to begin in defending an individual from a charge so involved; how is he to proceed---where is he to come to a conclusion amidst such a mass as this? Gentlemen, I ask you, as men of sense, ought the guilt or innocence of a fellow-subject to depend upon the chance of your being able, through this chaos of matter, to arrive at a true and just conclusion on the narrow issue you have to try? Who can be safe; who can be defended; what is a man to do when he is thus brought before the court, and has thus thrown down to him this pile of heterogeneous stuff, and he is told the charge against him is contained in that heap of confusion thus laid before the jury almost without an explanation of it? It has been read to you in the speech of the Attorney General, it is true, but not a word of it has been explained to you, and to this hour, now at the commencement of the fourteenth day of the trial, I venture to say not one gentleman that I have the honour to address knows the precise nature of the duty he has to discharge in approaching this chaos and in coming to a conclusion on this evidence, nor has any one of you, I am sure, the most remote apprehension of the way in which he is to deal with the mass of evidence thus cast down before him in order, out of it to draw any conclusion either as to the guilt or to the innocence of the defendants. Are you to take into your jury-room all those newspapers that have been read for you, and sit down to read them? What are you to do with them? Is it expected you have borne them in your memory? What are you expected to do with them? Let me ask you how you are to arrive at any conclusion from such a mass of premises. Gentlemen, having to deal with a case thus left in confusion before you---that confusion to this hour never having been so much as approached by either the Attorney General, nor by any of the three of my learned colleagues who have so ably preceded me---if my friend my Sheil in rising to address you so eloquently as he did in this case, to perform a duty for which he must be perfectly conscious of his complete ability---if he, intending not to approach that mass, that chaos of confusion---if he, intending altogether to leave that untouched, felt emotion at the magnitude of the duty he still had to discharge, what, gentlemen, do you suppose must be my feelings, not of emotion but of dismay, when I feel it to be my duty to approach that undisguised heap to try and explain to you how you are to deal with it? What do you suppose must be my feelings doing that in a case in which eight gentlemen stand here indicted before you for being conspirators, for being conspirators against the laws, and peace and happiness of their country---conspirators!! a name in all ages the most odious, in every clime, in every age and state of human society the most

detestable. To be conspirators is to be the worst of human beings---to be a conspirator is to be everything that can be suggested of vice, of treachery, and of villainy. Gentlemen, when I am here to defend these eight gentlemen, for, as I have told you, it is impossible to separate them---when I reflect that at the head of these eight gentlemen stands one man pre-eminent---pre-eminent to a degree that perhaps no other man ever was in this profession---pre-eminent for talents, pre-eminent for perhaps as many of the great virtues as any other that hears me---gentlemen, when I have him at my hand here, to see how it is I shall, and how it is I shall not discharge this heavy duty that has fallen upon me---gentlemen, when I have him who, for a period of over forty years, was the ornament of this profession within this hall---when I have his son, a candidate in that profession now only entering upon it, but a candidate for honours in it---when I have these thus charged with so foul a crime---when I stand here, gentlemen, for my own client, a young man not more than 28 years of age, a member too of another as learned, as honourable, and as useful profession as my own---when I consider all these things, gentlemen, and, above all, when it is recollected that I am naturally of too anxious a temperament, that I cannot approach a duty such as this, of defending a man against the imputation of crime, even when it is to be discharged towards the meanest fellow-creature, without an anxiety that almost disables me from the performance of it. Mine, gentlemen, when I take into account these considerations, mine is no enviable place at the present moment; but there is a little more to render my place an uncomfortable one just now. Gentlemen, I don't approach this case with any of the abilities of an orator---I have them not; I approach this case simply as a lawyer, and if my conviction be that this prosecution is an unconstitutional, an illegal, and an unfair attempt, now in the year 1844, to devise a ministerial scourge for the purpose of lashing a free people into silent endurance---if it be my opinion that possession of this ministerial scourge is pursued by means illegal, unjust, and unfair, I ask you, gentlemen, again, what a duty have I placed before me. The conductors of this prosecution, the three first men in my profession in point of rank, these are the persons who are pursuing this object. Gentlemen, all these members of my profession, as individuals in it, so far as I have any personal knowledge of them, I will speak of them as gentlemen severally, respectively, and individually in the most dignified and highest possible sense of that word; as lawyers, as far as I have had to do with them, I can conscientiously declare it is my opinion that they are worthy of the very highest eulogy that language can convey. I speak of them as lawyers in the best sense of the word, and I should be offering an indignity to my own profession were I not to avow that such an admission includes almost everything that can be said in praise of any man. But if I have spoken in such terms of those three distinguished gentlemen I have spoken of them as I have observed them in common matters and common cases. It has never before been my lot either to be concerned in or to have witnessed in a court of justice a state prosecution, but it has frequently come within the range of my legal studies to read the reports of many such cases, and from the perusal of these I have gathered this information, that if the three eminent gentlemen to whom I have alluded

have fallen from that dignity which in all other passages of their lives; as far as I have ever seen, they have honourably upheld, they have but followed the example of a greater man than any of them. Gentlemen, I say this without disparagement to them or to any member of my profession at present in existence. They have but followed in the footsteps of the great Lord Coke himself, whose eminent virtues and high dignity as a lawyer were not proof against the personal feelings which in all cases have governed the conduct of state lawyers in a state prosecution. Even the name of the illustrious Lord Coke has come down to posterity with "a dishonouring blot," incurred in conducting a state prosecution, for no friend of humanity can read, without feelings of execration, disgust, and indignation, his attack upon Sir Walter Raleigh, when prosecuting him for high treason. If these who conducted the present prosecution have fallen, therefore, from their high estate, is it not they alone who have so fallen. Gentlemen, I have told you that in my opinion, this prosecution has been carried on unfairly. Yes, I use the word advisedly—carried on unfairly by the three gentlemen who are at the head of these proceedings, and by their assistants, indeed I should not say their assistants for these I shall not have any thing to say. Yes, gentlemen, carried on unfairly, that is my word, and I will redeem my pledge by showing you how applicable is the term. But, gentlemen, before I proceed futher in my address it is not right that I should call upon you to consider this position in which I stand, and the character which I assume when, in the discharge of my professional duty, I proceed to animadvert on the conduct in this trial of the prosecutors of my client. It is highly expedient, and nothing more than mere justice to me, that you should bear in mind the exact position which I occupy upon the present occasion. What is the nature and character of the important office whose duties I have taken upon me to discharge? Am I not the representative of my client? Am I not in duty bound to say in his behalf everything that I think he would say, and ought to say, in defence of himself, if he were defending himself, and if he had my abilities, humble as they are? Nay, more, gentlemen, am I not bound to say for him everything that I would say for myself, were I, like him, not the advocate, but the man accused? Yes, that is clearly my duty, and I hope, gentlemen, that you will regard what I shall say upon the present occasion not in truth as my language, but rather as the language of a man put upon his trial, and defending himself to the best of his ability against a charge imputing to him a foul crime, of which he is himself thoroughly persuaded of his innocence. Gentlemen, the present prosecution is a contest, and a contest of a very interesting character, to the result of which the country looks with eager expectation. It is a contest in the very temple of Justice—it is a contest in the fortune of which are involved the characters and liberties of your fellow-subjects, and it is a contest, therefore, that ought to be carried on fairly on both sides, but, above all, fairly on the part of the prosecutors. Gentlemen, I will freely concede to the gentlemen who conduct this prosecution the power and privilege of exercising upon it their ability and ingenuity to the utmost extent; and all I require of them is that they exercise that ability and ingenuity fairly and legally. I would say to them, strike as hard as you can, but strike fairly; strike fairly, and

if you knock me down, and if I never rise again, I will, with my dying breath, admit, that although conquered by superior power, I am fairly conquered; but if you aim a blow below the belt you outrage the laws of manly combat, and are not the fair antagonist who deserves any respect or favour at my hands. The Attorney General opened this case by beginning with the law of it. He told you that you should take the law of the case from the court, and in this I concur with him, for I hope I am the last man of my profession who would ever suggest to a jury not to be directed by the court on every point of law that it is legal, and proper for the court to direct them upon. The law you will take, therefore, from the court; but I deny that the court has the slightest jurisdiction to direct you upon the question of the guilt or innocence of the accused; that is purely a question of fact and intention which the court has nothing at all to do with. No action that can be imagined not the killing of a man—no, nor even the killing of a sovereign—no action that can be conceived can be pronounced as a guilty act by any judge, or judges, court or courts, in this country, according to the law and spirit of the British constitution, nor by any power whatsoever, other than by a jury of twelve men upon their oaths. Hatfield fired a pistol at the king in the public theatre, and was taken in the fact; but no court had the least jurisdiction to pronounce him guilty of a crime without the intervention of twelve men to decide on their oaths the question of his guilt or his innocence. They alone had the power of looking into the mind, and of discriminating upon the intent upon which the act was done. The intent is that which constitutes the guilt, and nothing constitutes the offence save the intent with which it is committed; that is a maxim as old as common sense—as old as common humanity. If the mind is not guilty the man is not guilty. It is you, and you alone, who are to decide on guilt or innocence; and it is impossible to suggest that the court can legally direct you upon that point; the court has no jurisdiction to do so. The opinion of the court, no doubt, may be given, though it is rarely given in criminal cases, and in respect to the actual guilt or innocence of an accused party it never, never ought to be given. Why does the law take from the court the decision of the guilt or innocence of an accused party, and why does the law place that jurisdiction in twelve men selected from common society? Because guilt or innocence is never to be treated by technicalities; never to be treated as a question of science. It is never, therefore, a mere question of law, which is a species of science; it is a question of morality, a question of mind, of intention, and of feeling. Therefore, a jury is the proper tribunal which that question is to be decided by; because they are ordinary men taken from among them their fellow men, because they are not technically instructed in this or that profession; and the law has wisely determined that they are best judges to scrutinise and pronounce upon the actions of ordinary men like themselves. I say, therefore, that with the question of guilt or innocence the court has nothing whatever to do; no jurisdiction or right to meddle at all, not even to express an opinion; and I deny the propriety in a criminal case of its doing so at all, because when you are discharging the high duties imposed on men in your position, you are to look into the minds and hearts of your fellow-subjects, who stand accused before you, and you are called upon to do so under the solemn obligation

of an oath, and upon the evidence only, and not on the opinion of any man or set of men whatever. When you are required to pronounce upon the guilt or innocence of an accused party, the opinion of the judge goes into your box with more weight than that of any individual liable to be wrong ought to carry with it. The law says that each and every one of you is a better judge of that all-important question, the guilt or innocence of the traversers, than any other man in the land. Therefore, gentlemen, the law placing that in your hands, and calling on you to give your verdict, it is for you carefully and jealously to examine the opinion of any man who may be entitled to express that opinion to you, and to be quite sure that you don't entertain it for more than its intrinsic worth. This, gentlemen, I submit to you subject if I be wrong to be corrected by the court. I submit that you are to be yourselves guided by your own unbiassed common sense in coming to the conclusion of the guilt or innocence of my client. Gentlemen, having told you that you should take the law from the court, the Attorney General then proceeded, subject, as he admitted, to the correction of the court, to state to you the law of conspiracy. Gentlemen, I do not agree with him in his statement of the law. Perhaps it may be said to me—but I think that would be no answer—that my learned friend, Mr. Moore, yesterday admitted that the law as stated by the Attorney General was the law. Gentlemen, Mr. Moore stood here as counsel for the Rev. Mr. Tierney, and the case of his client was a peculiar case. He never attended more than one of those meetings. Against him, therefore, there is scarcely a shadow of evidence in the case that he conspired with any party. It was, therefore, not necessary for Mr. Moore to apply his able mind to the investigation of the law of conspiracy, as laid down for you by the Attorney General. Gentlemen, I cannot, on the part of Dr. Gray, rest upon a peculiar case, and I have, therefore, first to deal with this great question—is there a conspiracy at all in this case? It then becomes necessary for me to take up this question of law which is yet untouched before you, and to expose to you the monstrous absurdities—and I think I can do so as clearly as ever I demonstrated a proposition of Euclid—the monstrous absurdities that would follow from the law as laid down by the Attorney General. Gentlemen, you have heard a particular phrase frequently made use of during the progress of this case. You have heard of “overt acts;” over and over again has it not been rung in your ears; and let me now suggest this question to each of you to ask himself—Does he at this moment, does any one of the twelve gentlemen I have the honour to address, entertain any idea in his mind of the meaning of an overt act? Let me explain it. An overt act means simply, an open visible act from which some other secret act, or some covert and dark intention of the mind, can by just and sound reasoning be inferred. Overt acts are mentioned in relation to two crimes only, and never in reference to any other, but these two crimes; and these are treason and conspiracy. The reason is obvious—these are secret crimes—the one consisting in the mere formation in the mind of an intention or design to kill the sovereign, which intention although never acted on, the law declares to be treason, because of its enormity, and because of the dreadful result of carrying it into effect; and this is perhaps, the only intention of the mind which the law makes criminal, unless acted on. As it is impos-

sible to look into men's minds through any other medium than their acts; this criminal design thus formed in the mind (and by the bare forming of which the crime of treason is completely committed,) cannot be proved, except by the overt acts, or visible acts which flow from it, and which cannot reasonably be accounted for except by the existence in the mind of such a design. Thus, an overt act has reference to, and is a term resulting from a crime secretly committed by an individual. So when two or more privately combine and agree to commit a crime; as they may and as they always do enter into that criminal agreement privily, and not in the presence of any witness, the fact of their so combining can be proved only by their overt or visible acts, in their nature such as to lead the reasoning mind to the conclusion that the persons doing these acts must have previously agreed to them: such acts are called overt acts of conspiracy, that is, open and visible acts, proving the existence of a secret and criminal agreement. An overt act therefore *ex vi termini* supposes a secret crime—it is the visible or tangible proof of the secret crime, and not the crime itself. But you never hear of an overt act of murder—an overt act of perjury, or an overt act of any other overt or open and visible crime. The secret agreement to commit crime, is itself made a substantive crime, though nothing be done in pursuance of it; because of the danger to those against whom the parties thus secretly and treacherously agree to commit the crime; and thus, you see secrecy and treachery are of the essence of this crime of conspiracy. But to be any proof of this crime the overt acts must be such as cannot otherwise be accounted for, save only on the supposition that there existed preconcert between the parties for the purpose of effecting the end and object which these acts were calculated to attain. Apply this to the case before you. It has not been proved that any secret agreement was ever made between the defendants—it is not even alluded that any such was ever made between them. The acts which are called overt acts, and improperly so called, can all be accounted for without the supposition of any preconcert, or the existence of any combination or agreement whatever between the parties doing these acts. No act of any one of the defendants which has been proved that is not consistent with the fact of the defendants, never in their lives having spoken to or seen each other. That ordinary coincidence of opinion which pervades the individuals of every political party, will account for every act proved in this case, without supposing that these defendants ever met, or ever agreed on any one proceeding in the whole course of their lives. The meaning of an overt act, which he said applied only to two crimes, namely, treason and conspiracy, and which was an act in furtherance of the preconceived intention. He then entered into a discussion of the doctrine of conspiracy, and showed that to establish a charge of conspiracy it was necessary to prove either that, previous to the commission of any alleged overt act, an agreement was formed between the parties to effect an end by preconcerted means, or to demonstrate the existence of a previous agreement, by proving the commission of certain acts which could not by possibility be accounted for, save on the supposition that they were preconcerted for the purpose of effecting the end they were calculated to advance, and argued that in this case no previous agreement had been proven, or even alleged, and that every act falsely called an overt-

act of conspiracy could be more rationally accounted for without the supposition of previous agreement, and that, therefore, no conspiracy was proved. First, you are called upon to believe that every human being who attended every one of those multitudinous meetings, being thus engaged in the common design of obtaining the repeal of the union—being thus, gentlemen, all engaged in that—they are all guilty of being conspirators; and the act of every man of them is that evidence against every other of them. You can, if you believe that to be the law, account therefore for why the conversation between Captain Despard and a man that he says he met on the back of a ditch, where there was not a single one of the defendants. The speech of the man, whoever he was, from the back of the ditch is here put in evidence before you as an overt act of conspiracy in the defendants, that is to say, an act which proves, which affords convincing proof, to the mind that that act could not have been done by that man unless there had been a previous criminal concert and agreement between him and the eight defendants. That, mind, is the only way in which the act of that man, whoever he was, can be by you entertained in this case as evidence in any degree whatever to affect your verdict. Gentlemen, give me your attention for a minute. You are not here trying whether any of those meetings were illegal or not; you are not here trying any one opinion expressed at them was legally or morally wrong or not. Those meetings are admissible in evidence of any or either of those purposes. First, for showing if the repeal of the union be pursued by the defendants by legal means, therefore does the question of the legality or illegality of any of those meetings arise in this case. Secondly, whether the meetings were legal or not, the meetings may be evidence in this case as an overtact, that is they may be evidence showing that that meeting could not have taken place unless there had been a previous conspiracy, and a previous conspiracy of those defendants, that is the only way in which your attention can legitimately be given to any of those meetings at all. This Wexford man, I am sure, knew Captain Despard—nay, he let himself known to him. He must indeed be ripe for rebellion, if he thus volunteered to state to the head of the police that he had come with a body of “bone-and-sinew” men to that meeting; above all, that he should be guilty of the outrageous folly of stating that Mr. O’Connell did not want such men as Captain Despard, but “bone-and-sinew” men—a plain insinuation that he wanted men to fight, not men to petition—is the very acme of improbability. Walker, Major Westnra, and this pretended Wexford man, were all on the ditch. Captain Despard comes up, and of course knows nothing of any arrangement on the part of the others. He sees his friend Major Westnra, and goes up and stands near him. Now if Major Westnra and Walker had so planned the thing as soon as their friend Despard came up, that this man planted there should address him in that extraordinary way, I can then account why Capt. Despard comes to prove the conversation without being guilty of perjury, and also why Walker was not questioned and Major Westnra not produced. I will show you in the course of this case, a little management that would render it not improbable that something of the kind may have been done in this particular instance. You may remember the crown wished to establish unity of place in the devising of the heads of ornaments of some of the cards. In the year



1844, the day of Paddy M'Kew, is, to a certain extent, gone by, and we shall meet the system in our days conducted in a more civilised way. It won't exactly do nowadays to bring upon the table a man who has joined an association of this kind, who, perhaps, was the suggester, the contriver, the inventor, and the executor of those features of it which are or are not supposed to bear against the members of the society—it won't do nowadays to bring a man who has violated every principle of truth and honour towards his associates before a jury, and expect they will believe him. That is not to be expected now; and if the master lithograph printer, \* \* \* \* appeared to be a leading, conspicuous noisy, and clamorous member of the association, it could hardly be expected that he should come here as a crown witness, and that you would believe him. \* \* \* is not produced, but two young men, whom he happened to have in his employment, are produced, to prove the graving of the card; and you remember the great difficulty there was in establishing the connection of those cards with the association. What could have been easier than to prove that connection in the way it had been done in the case of the placards, where the man, Browne, who was employed concerning them, and paid by the secretary, was produced. I am sure I am addressing rational men—that I am addressing honest men—who will give its proper effect to every fact brought out on this prosecution; and I ask you, is not the reason obvious why \* \* \* who was the workman of the association, and also, at the same time, the workman of the government, was not produced to prove the connection. If \* \* \* was convicted on this table as having been the instrument of the government; that he suggested those emblems of sedition, which he executed, that he put them upon the cards of this association, such a course could not fail to call aloud for your condemnation. Therefore \* \* \* has been permitted to roam at large, to wear his cap of liberty; and, I ask, is not that of itself an evidence of craft, of subtlety, of foul play? If so, I have them there plainly connected with it, and is it too much for me to ask you to believe that there was not some contrivance and management; whether or not I have exactly defined its detail, but which forms part of that arrangement that brought this Wexford man into communication with Captain Despard. Here the learned counsel referred to and refuted the dictums of Mr. Justice Colerige in the case of the King v Murphy, and of Mr. Justice Bailly in the case of the King v Watson, proving that they had no real bearing on the issue. Mr. Justice Bailly was not delivering from the bench any judgment upon a point that was of law; nor was he addressing a jury sworn to try a man. No; he was merely giving general directions to a grand jury. But what, after all, is the inference that is fairly to be drawn from the passage that has been so much relied upon? It is plainly this, that the jury, in order to a conviction, must come to the conclusion that there has been a previous consultation and conspiracy, and that they must come to that conclusion without any doubt; but that it is not necessary, in order to coming to this conclusion, to have the evidence of some person who actually saw the accused parties in the act of consulting. But you must believe that they did actually consult; and furthermore, that they consulted with a criminal intent as criminal conspirators. All that you must believe before you can find a verdict against the party or parties who are put on

their trial. And now, having called your attention to the only two authorities that have been cited by the Attorney General, I come to consider the third point of his speech; and now gentlemen, as British subjects, as men who desire to spend the rest of their lives in a country governed by rational laws---as men who desire to leave your children the laws as you enjoy them yourselves---as men who love justice and honour, integrity of purpose, I conjure you to pay attention to the remarks which I will offer upon this branch of the case. The Attorney General told you that "provided a man comes into a common purpose or design he is as much in it as if he had been in it from the beginning!" Such, gentlemen, is the *legal* proposition which has been laid down by the Attorney General. I dare say the Solicitor General, who will have the right of reply, will endeavour to get the Attorney General out of the absurdity in which he is thus involved by explaining that what the Attorney General meant to convey was that every one who came into a common purpose or design to procure the repeal of an act of parliament, *by illegal or seditious* means, was to be accounted a conspirator as much as if he had been in the design from the commencement. But this explanation necessarily involves the assumption that seeking the repeal of a statute, by calling together in peaceful assembly masses of people, who conduct themselves legally and decorously, and not the delivering of such speeches as have been read in court, involved in legal practices, and was, in point of fact, looking for Repeal through criminal agencies. Let them prove that. The law of conspiracy touching the combination of, and attending at illegal meetings, the Attorney General supports by referring you to the case of Redford and Berney, reported in 3d Starke's *Nisi Prius* Cases; and here I beg leave to give you a short history of that case. It was a remarkable fact that the Attorney General did not think it right to give you any account of it at all. The case of Radford and Berney arose out of a very remarkable and far-famed case which occurred in Manchester in 1820. You have, gentlemen of the jury, in this case heard of the meeting which took place on the 19th of August, 1819, at a place called Peterloo, at Manchester. At that meeting Mr. Hunt was in the chair, and while the meeting was going on he was arrested, and in the course of dispersing that meeting several people were killed and some maimed. Hunt was prosecuted, and the indictment charged him, as in the present case, with a conspiracy. The first count was the principal one, and charged him with conspiracy. There were also three others in it. The jury who tried Hunt announced him not guilty of the conspiracy, and they gave that verdict solemnly and honestly, not because they were political partizans of Hunt---not because they were partial to the cause he advocated, and they proved the fact to the world, by finding him guilty of attending an illegal meeting, at the same time that they acquitted him of the conspiracy, and therefore they found that the meeting was illegal, while they justly pronounced him innocent of the charge of conspiracy. That being the result of the prosecution of Hunt, a man of the name of Redford, who was injured at the meeting, brought an action against the captain of yeomanry, who, in dispersing the meeting, had injured this man with his *sabre*, and for the injury so sustained a civil action was brought to recover damages. The case was tried, and I will call your attention to the pleadings in that case. There was a plea of

not guilty, the effect of which was to deny every thing ; but as it was not safe to defend the case on that plea, because there were certain matters to justify, and therefore several special pleas were put in, and in them it was alleged that the meeting was illegal and called together in consequence of a criminal conspiracy, and that in consequence of Redford having attended this illegal meeting the defendant in the discharge of his duty put him away with as little injury as possible. In this plea a conspiracy was alluded, and it then became necessary to prove it. In consequence of this, amongst other evidence produced on the trial was a man who stated that two or three nights before the meeting, at a place called the White Moss, he saw a great body of men going through exercise or discipline like soldiers. The evidence was tendered, as it was said the man was ill-used and abused by the parties who were so assembled, but they let him go with his life, and on the next day when passing the house of that man; on their way to the meeting, the parties hissed. That evidence must have been given on the trial of Hunt when he was charged at York with the conspiracy, and if the Attorney General was right Hunt must have been a conspirator although he was not at the night meeting where the man was abused and where the men were drilled. This evidence was objected to, but it was admitted by the judge, and the jury found a general verdict for the defendant, but on which of the pleas it did not appear. A motion was made afterwards to set aside that verdict, on the ground that illegal evidence was allowed to go to the jury, but it was refused ; and the Attorney General says this is the dicta of a judge in reference to the present case. Gentlemen of the jury, in estimating the value of the dicta of judges, when cited by a lawyer in cases in which they have a great interest, I hope you will bear in mind this dictum as it has been cited. This dictum was cited for the purpose of leading you to the conclusion that the drillings that were alleged to have taken place amongst the Repealers, but that has not been proved, were criminal and illegal drillings ; and he begins, Mr. Attorney General does, at the conclusion of the first column of page 125, and he reads :—" It appears impossible to say this drilling was innocent. If it were not innocent, what is it ? " Here he stopped. There he began, and there he stopped. Don't you think, gentlemen, that in common fairness he ought to have read for you the charge to which the word " this " refers ? Now, if there was an explanation of that pronoun in the judge's language that he was citing from, in fairness to him don't you think he ought to have read it ? If he wished to influence you by the sentence he read, don't you think common fair dealing towards you should make him read what the word " this " referred to ? But he did not explain it ; he left that to me to do, and I will do it, and do it with note and commentary. Now let us see what was the drilling that Lord Wynford was speaking of. The learned gentleman here read Lord Wynford's observations in some length, and then proceeded as follows :—Gentlemen, if there exists a case in which a lawyer of the meanest order, in citing the law, is bound to cite it, candidly and fairly, that case is the case of a state prosecution. If there be a case in which common humanity requires that the law should be fairly and candidly cited, it is a case where a man of my own rank ; of my own profession ; who was for nearly half a century an ornament of that profession—who was for nearly half a century,

without any disparagement of myself, my clearly admitted superior in all particulars of professional excellence; if there be a case in which every ennobling feeling that belongs to the human kind in any heart where feeling has found a footing, it is this case, where a man in the discharge of a public duty has a painful task imposed upon him of driving into a prison to eke out in miserable wretchedness the evening of a long life—his brother barrister—his fellow-man—who has nearly completed that measure of human life that is said to be its full extent, and to consign him to eke out the little of that life that now remains, in the cold and freezing atmosphere of a dungeon. That is the case which ought to suggest fairness and candour, if any had been. That is the case in which I would go standing to defend myself against my brother barrister if it should be his duty, as Attorney General, to prosecute me. That is the case in which I, conscious of innocence, would say to him, my brother, do your duty—do it like a man—strike hard, but strike fairly! I would say to him strike fairly, but if you aim below the belt, I repeat it, although you succeed in parrying your treacherous blow, you are no longer a man entitled to any respect, or entitled to any quarter. Am I, gentlemen, because I am not here in my own case, am I not to fight this battle as I would fight it for myself? Gentlemen, it may be productive of bad consequences to me in my career to do so—but I shall never eat the guilty bread which is earned by professional subserviency. I shall not retire to rest upon my pillow, borne down with the remorseful feeling that I was an example of turpitude, as I should if I would not say over and over again every word that I am justified in saying, and in saying because I am justified in feeling it. Such, gentlemen, has been the conduct of the Attorney General in this prosecution.—This is an indictment charging the defendants with a crime of seeking the repeal of what they consider to be a pernicious law by the exhibition of great physical force. Now, give me your attention for a moment, and you will see what that is. It does not charge the defendants with seeking to obtain their object by the use of force. There is no such charge in the indictment. It does not allege that they had in view, or in contemplation at all, the use of physical force. The exhibition of it they acknowledged to. Let us see for a moment what does that mean:—An immense mass of the community are dissatisfied with the present law, and they want to alter it, and they come forward in masses—in immense numbers to express their desire that it shall be altered, and their determination never to stop—never to stay in their constitutional and legal efforts to have that law repealed, and they in the strongest language declare their determination never to cease using every effort the law and the constitution sanction to have that law repealed. And in the course of this pressing of the people for a repeal of that law, they come forward in great numbers for the avowed purpose of showing what an immense mass of the community, and what an immense proportion of the physical and the moral strength, both together, of the community are favourable to the change they want to make, and that is what the Attorney General of Ireland comes here to prosecute as a crime. I wonder does the Attorney General think that magna charta was brought about by crime. I wonder was there any exhibition of physical force, although it is certain there was no use made of it. I wonder if physical

force was used upon Runeymede when the iron barons of England, fully armed, presented themselves as persuasive visitors before the doors of their sovereign to ask him, by way of favour, to sign the charter they had brought in ready for him. There was an exhibition there; yet that is the character which the Attorney General---no! no judge! nor no king of England dare to say was procured by force, and was, therefore, void. Is that the only instance in English history of great reformation being brought about by the exhibition of the mighty proportion of the physical and moral force of the country? No, there are other instances. Let me ask you has any great measure been attained except by the means imputed to the defendants. Look to the Clare election; what was that? Was not their great physical force exhibited there? Why were not the people prosecuted? Why should they be prosecuted? If the great mass of the country be galled, if they be suffering, why should they be repressed from the expression of their feelings of that suffering? Why is this a momentous case? Because it is a case by means of which, and from your verdict the present ministry are seeking to get into their hands a scourge by which they may be enabled to repress the public expression, the multitudinous expression of the feelings of every man in the country who may not be one of the party. That is a thing for which every ministry in every period of English history are anxiously striving for, yet not a single one of them to the present hour have succeeded. Early in the reign of Edward III. the state lawyers from time to time began to draw their constructions upon high treason; they at length inserted what was called constructive treason, and at length, in the course of time, public opinion swept away all these obstructions, and restored the British law. Again the last attempt, a foul attempt, was made in the prosecution of Hardy and Tooke, in 1796, that was a period of tremendous anxiety, when the affairs of France presented a spectacle which every lover of peace and order, and every man who had the peace and happiness of mankind at heart, would join with all possible alacrity in averting in his own country. That was a time at which one of the ablest, one of the most learned, one of cunningest, one of the most artful men that ever lived, was made in England Attorney General. They framed upon that occasion an indictment against a great man; a very popular man, a very great man in point of bearing and ability---few could equal him, I mean Horne Tooke. They assembled a jury upon that occasion; they got hold of the papers of the two societies of which Horne Tooke was a member---they, as in this case, raised a chaos on the table---they threw down horseloads of these papers, and desired the jury, and ingeniously sought to induce them to pick out treason from the mass. That prosecution was countenanced by the greatest authority---it was carried on---it was pressed on with the ability that both the Attorney General and Solicitor General of that day possessed, for I am willing to acknowledge that they were both great men. The prosecution, however, failed; the common sense of the jury, who were Englishmen, found a verdict against the prosecution. But it was not given up---they first proceeded against poor Hardy, the poor shoemaker, and he was acquitted, That did not satisfy the destroyers of British liberty; they brought it before another jury---they drained the cup to the dregs, and one by one---they were not satisfied---in short, three successive juries composed of sensible Englishmen, defeated

their attempt. That was the last attempt made in England to establish constructive treason. I trust it will be the last

EXTRAORDINARY SCENE—THE ATTORNEY GENERAL.

During the absence of the judges and jury for refreshments, a scene of most singular, remarkable, and truly unprecedented character, took place in court which perhaps it ever fell to the lot of a journalist to record. It was observed that some hasty observations and in a very excited tone and manner passed between Mr. Fitzgibbon and the Attorney General, and there was, to use the language of Mr. Sheil, "a hush of public expectancy and almost breathless silence;" when after a much more protracted absence than usual their lordships resumed their seats upon the bench.

Mr. Fitzgibbon rose and said—My lords, as I was coming into court after having, from the effects of illness, endeavoured to take a short respite in the library after an exertion not very seasonable, having regard to the state of my health, a note was put into my hand signed by the Attorney General, which I ask him now to place in your lordships' hands.

A short pause ensued, and the Attorney General having made no reply,

Mr. Fitzgibbon continued—My lords, I hope that in opening the case I did very clearly and plainly express my sense of the position in which I had been professionally placed. I think I did very clearly and plainly express what my opinions and what my feelings were in respect to the gentlemen who here represent the crown. I very clearly separated any reference in what I said of my private feelings from what I considered my duty required of me to express, not in reference to themselves personally, but to their conduct in this prosecution, and I do not think that I travelled out of the line of my duty in making those observations, I observed upon no act or thought of a single one of them except an act done or a thought expressed in the course of this prosecution. I said very plainly and distinctly that I would depise myself if I left unobserved any point upon which my client might observe if he were in my position, and defending himself as his own counsel, or I in his, as a traverser at the bar, and defending myself, I pursued what I considered to be the course which my duty indicated, and I don't think I went beyond it. Now, my lords, I ask the Attorney General to hand up that note; and if he will not, I will tell your lordships the substance of it. He tells me in that note that I have given him a personal offence, and he calls upon me, if I don't apologise for it, to name a friend (sensation throughout the court.) I need not advert further to his position or to mine on the present occasion, nor is it necessary for me to refer to my peculiar position at this moment, while defending one of the traversers here; but, with these observations, I shall leave it to your lordships to deal with his conduct.

The Attorney General rose and said, in rather an indistinct tone—If Mr. Fitzgibbon has any application to make to the court, let it be made in the usual form. Let him make an affidavit, setting forth all the facts (great sensation).

Mr. Fitzgibbon (warmly)—I never will.

The Attorney General—He would then have to state that he attributed

to me in this court---and it was so taken down in writing by some of my friends---that my public conduct in the conducting and carrying on of these prosecutions was influenced by private and dishonourable motives. By the effect which the result of this prosecution, in its failure or otherwise, might have upon myself or upon my personal interests, I do not think any counsel is justified, even in his public capacity, in attributing such unworthy and unwarrantable motives to me, as that I could be influenced, in this case, by my interests with respect to the political party to which I belong. I did then, and I do still, feel very much offended at it---very much irritated at such an allusion---and I consider that no observation which could be used could more strongly tend to excite such a feeling. Certainly, if language of the kind was not intended to convey a personal imputation on myself, I cannot conceive anything easier than for a gentleman to state that he had been misunderstood by myself and my friends. These are the circumstances, and if there is any question to be properly brought before the court, whatever its rule may be, I am perfectly certain it will not sanction any personal imputations on the counsel who are engaged in conducting it.

Mr. Moore was about to make some observation, when

Mr. Fitzgibbon again rose and said---I beg your pardon; allow me to address the court. My lords, I could very well understand the good sense and propriety on the part of the Attorney General of calling my attention to any thing which I said that might have offended him, and I could equally understand the propriety of my acting in accordance with the feelings and principles of a gentleman had he permitted me the opportunity of taking that course which propriety would dictate. I will not now say what I might have done under the circumstances, for that was not the way he acted; but, with a pistol in his hand, he says to me, "I'll pistol you, unless you make an apology;" and I cannot help telling him now, that such a course won't draw an apology from me.

Some minutes elapsed without any further observation having been made on either side, the court having been engaged during the interval in consultation.

Chief Justice---Mr. Moore, you were going to make some observations a while ago.

Mr. Moore---Really, my lords, I am afraid, after what has lately occurred, of making any observation at all in the matter. What I was going to take the liberty of suggesting to the court, in reference to an occurrence which I am sure every individual member of the bar and the public will equally regret, in a case like the present, where the feelings of every person engaged on the one side or on the other, are necessarily very much excited, and in which I should hope every indulgence might be extended to anything irregular that may have occurred; what I was going to take the liberty of suggesting was, that as there appears to exist a very warm feeling on one side and on the other, an opportunity should be afforded of allowing that to subside, and of removing on both sides, any misconception that may have previously existed. That was the proposition I was going to take the liberty of making. I cannot attempt to justify what has taken place, nor am I authorised to interfere in it; but from the position which I have the honor to hold, and the sincere personal regard I entertain for both

gentlemen, and thinking it might be desirable for their own sake, for the interests of the profession, and the sake of the public at large, if the court would allow some interval to elapse, in order that those feelings may subside, and this most unpleasant affair may be satisfactorily arranged.

Chief Justice---The court are very much indebted, and very much obliged to you, Mr. Moore, for the part you have taken, and the short explanation you have given. The court feel themselves placed in a very embarrassing and perplexing situation. They feel unwilling to give any intimation of their opinion as to the propriety or impropriety of what has taken place in court, being willing to make allowance for the excited feelings of the gentlemen concerned in a case of this nature, which may carry them beyond what their cool judgment would approve of. They, therefore, give no sort of intimation at present of what their opinion is in regard to the conduct of the gentlemen at either side pending the trial of this case. They feel it to be very embarrassing to be required to pronounce any sort of opinion while a case of this nature, in which the public is so much interested, is depending before the court, the jury, and the public at large; and they also feel that of all men in the profession the Attorney General is the last man who ought to have allowed himself to be betrayed into such an expression of feeling as has been stated to the court as having taken place during our absence, for although we were not personally present, it yet occurred while the court was sitting in the discharge of its judicial functions.

The Attorney General (interrupting the court)—I have to state, and my friends tell me so, that that note was written very hastily; but considering the position I was placed in, and the strongly irritated feeling I was under, I concur in what has been suggested to me, and I have no objection to withdraw that letter, but I shall make no further terms about it. I feel that I was very hardly dealt with, and I leave it to the court to consider what course the gentlemen who used that language ought to adopt in regard to what is due to me.

The Chief Justice—The court are bound to consider what took place as if it occurred during the business of the court, and we can't by any possibility allow it to go further. It must be put a stop to.

Mr. Moore—I know how very difficult a position I am placed in; but I would take the liberty of suggesting to Mr. Fitzgibbon, after what has been said by the Attorney General, that he should admit that he has fallen into an error, which any man may fall into; and I only suggest to him what I would do myself if I were placed in the same unpleasant situation.

Mr. Fitzgibbon---Your lordships have heard---and all who are now present have heard---what fell from me in the course of my address to the jury. The Attorney General has repeated what he says was taken down as my language, and he says that I imputed to him dishonourable motives---not being influenced in his public conduct, in regard to these prosecutions, by the love of place, or the desire of place, or personal advantage to himself. My lords, that language did not come from me---I carefully avoided it. I spoke of Lord Coke and others being influenced by those feelings which every public prosecutor was more or less influenced by in them days, and which might appear to influence public justice; but



I appeal to your lordships' recollection whether I ascribed to the Attorney General one single feeling dishonourable to him more than what I suggested was the cause of unusual warmth in a public prosecutor in all cases of this kind. I regret extremely that the Attorney General, before he took the course he did, did not address me, for I stand here unconscious of having either said any thing or done any act with the intention of wounding the feelings of another. I never imputed personal motives of a dishonourable nature to the Attorney General. What I have done, my lords, in this case, and what I have said I have said and done in the discharge of what I conscientiously felt to be the duty I owed to my client. I did not speak of him except in the opening of my address to the jury, and in what terms did I speak of him then? I spoke of him as a gentleman in the best sense of the word—I spoke of him as a lawyer in the best and most dignified sense of the word. Such is the character and extent of the language which I applied to him personally. Did I not say all that in his behalf; and did I not add that my personal experience of him fully warranted me in saying thus much? This was the extent of my personal allusions to the Attorney General, and if in the subsequent part of my address I made any reference to him I did so in the discharge of the duty which, as an advocate, I owe my client, and my remarks were meant to apply to his conduct in the present case and to nothing else. I am not disposed to claim as a right the privilege of canvassing the conduct of the Attorney General. If it be a right it is to me a most painful one, but when I am defending a gentleman who has done me the honour of confiding to me his defence, where he is accused of an atrocious offence, I feel it to be my imperative duty to analyse the official conduct of the first law officer of the crown in the present case; but out of the present case I will not travel. I spoke of the Attorney General as a public man, and as such only, in reference to the present prosecution. I spoke of his conduct in the present case; but out of the present case I did not for a moment travel, nor did I allude to one solitary act of his life unconnected with this trial; and am I to be told that I am to make an apology to a gentleman who——

Chief Justice---You may have misunderstood the Attorney General, Mr. Fitzgibbon.

Mr. Fitzgibbon---My lord, it is totally impossible that I could have misunderstood him.

Chief Justice---Yes, but Mr. Fitzgibbon, we are all liable to fall into error, and it is possible that there may be misconceptions on both sides.

Mr. Fitzgerald---My lords, the first emotion of my mind when I got his note was---no, I will not say what it was---my second was to let him out of the difficulty in which he had placed himself.

(Here Mr. Fitzgibbon took up a piece of paper in shape not unlike that on which the challenge was written; but he tore it across and flung the fragments under the table.)

The Chief Justice---I was going to say that the whole matter has now been laid under the consideration of the court, and that there was no necessity to go any further into a statement of the circumstances.

Mr. Fitzgibbon---I have been misunderstood, my lord, I do——

Chief Justice---The Attorney General has withdrawn the note he

addressed to you, Mr. Fitzgibbon. He has expressed his regret that it was written, and wishes it to be regarded as if it had never been written. He misunderstood you.

Mr. Fitzgibbon—My lords, any man must have grossly misunderstood me who imputes to me the intention of attributing base motives to any one in the discharge of my professional duty. If I could for a moment imagine that any man could conscientiously suppose me capable of such gross conduct as that of imputing to the Attorney General base motives—I have nothing on earth to say to his motives—I can only say that such a man has grossly misinterpreted me. Were I, indeed, capable of acting such a part I could never again esteem or respect myself, and the direct punishment that could befall me would be the self-reproach which would follow me in every scene of my life. I only spoke of the Attorney General in his official character as the law officer of the crown; and my remarks had only reference, I again repeat, to his conduct in the present case.

Mr. Moore rose and said that the gentlemen at both sides having given every explanation that could be expected from them, of whatever was disagreeable in this distressing occurrence, he hoped that the matter might now be fairly considered as set at rest. He trusted that it would be passed over in silence and consigned to oblivion for ever.

The Chief Justice (after consulting with his brethren) said that the court felt exceedingly obliged to Mr. Moore for the part he had taken on this perplexing and distressing occasion. The matter was now at rest, and the court most earnestly trusted that it would not be necessary hereafter to advert in any manner whatsoever to what had taken place. I should hope it is not necessary to say any more on the matter than has been already stated.

The Attorney General—I of course acquiesce in every thing that has fallen from the court. I have withdrawn the note, and inasmuch as I understood Mr. Fitzgibbon to repudiate the idea of imputing any unworthy or personal motives to me, I can only say I am satisfied.

The Chief Justice—That this unpleasant matter may at once be at rest, the court think that they may call upon each gentleman to declare that he is satisfied to abide by what has just fallen from Mr. Moore.

Mr. Fitzgibbon—I can only say that I did not mean to attribute any unworthy motive to the Attorney General, and I have no other feeling towards him at the present moment different from what I felt this morning.

Thus the matter dropped.

The Learned Counsel then resumed his address to the gentlemen of the jury. The Attorney General told you about Lord Althorp, whom he stated got up in his this joke? But when they make imputations against others that may be cast upon themselves, gentlemen of the jury, may it not be said that he wants to make a "cat's paw" of you. The Attorney General then comes down to the case—the case itself. He comes down to the period at which this association was established, and then he proceeds to read for you the different speeches and publications which he says were overt acts of this conspiracy. He was reading those for many days—he read for you amongst the rest a little scrap of poetry—very treasonable poetry—"The Memory of the dead," reminding people of the year '98.

I wonder, gentlemen, when he was commenting upon that little *morceau*, I wonder it never struck him to recollect "The Exile of Erin." Now, what is that little piece of poetry? What is it but an expression of pity, and commiseration, and respect towards those who perished in that frantic struggle, telling those who may be the relatives of the unfortunate persons that so perished that there was no reason to blush for their treating them as poor misguided men, no doubt concluding with the chorus---

"You, men, will be true men, and remember '98."

I don't know whether it was expected by the repetition of those lines, gentlemen, that you men should be true men, and that you should remember '98. And that you should remember '98 against those of the traversers that stood the test of '98—that were loyal in '98—that were loyal since '98—and that you should be true men and remember '98 against those that were not born in the year 1798. I am no repealer. No man ever heard me say, privately or publicly, that I desired a repeal of that statute; in truth, I have never considered the question much, for this plain reason, that I thought it useless for me to do so; but let any man convince me to-morrow that the repeal of that statute would raise this unfortunate country from that most deplorable condition, and, gentlemen, I would be a repealer. I will not shrink to say, if once I am convinced that that statute is the cause of that misery, that I am willing to pursue the repeal of it even to the death. That is going as far as any of those men have gone. But I hope no man will imagine that I would pursue the repeal of that statute by the commission of crime. Gentlemen, I hope that the many, many thousands---I hope that the traversers are men who, although they would die to repeal that statute, would sooner die fifty deaths than repeal it by conspiracy. See what you are called upon to do. Because they considered that the repeal would be the regeneration of Ireland from that state of wretchedness---because they endeavoured to persuade others by warm language to be of their own opinion, therefore you are called upon to say that they are guilty of a foul and treacherous conspiracy. What is conspiracy in its proper sense? Is it just to say that it means concert-agreement? It does no such thing. The essence of the crime is treachery. Conspiracy means where men put their heads and wits together intending to commit crime, knowing it to be crime against their neighbours who are not upon their guard, entering into a conspiracy to do that which is criminal. In the complicated crimes of this country how can it be said that it is criminal for a man who claims the estate that is in your possession, thinking he is legally, and, if you please, he is pursuing an illegal object, is he, therefore, a conspirator? See how that is illustrated by the cases that are decided upon. Those who bribed the assistant of the cardmaker were guilty of the crime charged to them. Is that like the case now brought before you? Certainly not. It is utterly impossible. Gentlemen, the law of this country never sanctioned the application of the law of conspiracy in any such case as this. In the case of the King *v* Burke, any such as this. The learned gentleman here referred to the proceedings in the state trials of England against Redhead, Yorke, Woodfall, Junius' printer, and the Dean of St. Asaph, and concluded as follows :---Am I (said the learned counsel),

gentlemen of the jury, to take up your time by commencing and reading for you, and then explain to you the great mass of documents which you have already, in part, heard read. If I were to do so, what would you do (laughter)? Take the speech of Dr. Gray, my client, for instance, which he delivered at Laughrea---a very good speech, but perhaps a very warm one. I say if I take up that speech, and put it into your hands, and point out to you that it is not traitorous or seditious, that would not make the least progress in the case. It was not the sedition that was the question at present, because you should not pay the least attention at all to it, inasmuch as it was not proved to you. To what end should I take up this or any other speech, and point out to you the innocence of the language? It would be useless to do so, for it would be only knocking one head off the Hydra to produce twenty others in its place. Look at the course pursued with regard to you. They selected such passages from the speeches as they thought they could count on to contain sedition, and they read them for you. For, from the bread of life itself you may extract a poison strong enough to kill half a dozen of people. When they read the passages containing, perhaps, strong language---the warmth of the zeal of some of the traversers---they have not read for you passages expressly different; and I'll show you that if you are to judge of Mr. O'Connell's motives, and to decide whether he is a conspirator or not, as you will find it in his own published language. I venture to say that there is not one who would not be admonished to the strict discharge of his moral duty by them; and is it fair, then, that from expressions used in the warmth---selected from the immense mass, as Mr. Sheil had observed, of three or four years' producing---they should read these passages to excite the passions of your minds. It will now be necessary for me to take up your time by reading for you some portions of Mr. O'Connell's speeches which have not been placed before you, and I hope the court will not think it unreasonable, as the usual hour of adjournment has come, to indulge me until to-morrow.

The court adjourned until next day.

---

#### FOURTEENTH DAY.

Mr. Fitzgibbon resumed his address at the sitting of the court. He said---Gentlemen, the magnitude of this case, and its importance to the client who has placed me here to defend him, absolutely requires that I should stand up on the morning of the second day to address you. I hope no man will ascribe that to me, that I should not have the power, in a speech of some two, or three, or four, or five, or six, or seven, hours to digest a mass of matter that has been confusedly laid down before you without explanation---that I could not have the faculty in a short speech to make that intelligible to you, and bring before you the other matters calculated to explain and neutralise, and render innocent, much of what you have heard in the shape of crimination. Gentlemen, that is not my fault---it may be my misfortune. I may, perhaps, be entirely deficient in the faculty of condensation. I can deal with a case, I confess, only by details. I hope

I don't stand in a wrong position from being supposed for one moment, in not concluding yesterday, to have broken any implied promise to the court.

Chief Justice---Don't imagine any such thing.

Mr. Fitzgibbon---I have a duty to perform in reference to my own peace of mind, and I must do it, no matter what time I take to do it. I stand here only for one of the traversers, technically speaking, Dr. Gray. He, gentlemen, is a young man, and belongs to a respectable and learned profession; as respectable, as useful, and as honourable a profession as that to which I have the honour myself to belong. He is a young man in the beginning of life; he is part proprietor of a newspaper of, perhaps, the oldest standing of any in your city; a newspaper that has preserved a good and unimpeached character for morality, and a high character for ability for half a century in your city. I, gentlemen, have to defend him for having been taken with the eloquence, the ability, and what he believed to be the true and honest patriotism of a man whose tongue scarcely ever failed to seduce to his opinion any one that would only give himself the patience to hear him. That is Dr. Gray's sin and crime, if you will; and, gentlemen, in defending him from the imputation of crime; from having been led or misled, it becomes essentially necessary for me to bring before you the passages of the eloquence of the gentleman who so seduced my client into this association, which have not yet been read to you, and which are eminently calculated, in my humble opinion, not only to exonerate from guilt the man that lent his ear to those speeches, but to exonerate every other man belonging to this association, including the first of the traversers, Mr. O'Connell himself. Gentlemen, I said to you that ingenuity had been exercised in selecting passages from the speeches of Mr. O'Connell, and by reading them in rapid succession to you, which selections were calculated to lead a man to believe that Mr. O'Connell's agitation had for its object a final termination, by insurrection in this country; that although he had peace upon his tongue, he had sedition and rebellion in his heart; and let them disguise it as they please, that has been their imputation here. Let me tell you what, to my own judgment, appears to be the true meaning of the very strongest passages they have read to you from the speech of Mr. O'Connell as calculated to such a conclusion. The learned counsel here read extracts from several of Mr. O'Connell's speeches, and commented upon them to show that no criminality could be attached to him, and concluded his eloquent address as follows :---And here I may call your attention to a portion of the statement of the Attorney General, of which my client, I think, has no small reason to complain---to complain in point of law, and to complain in point of justice and fairness. The Attorney General asserted to you that the organisation of this repeal movement was after the plan of the organisation of the rebellion of '98. He broadly asserted it, and he brought into court an octavo volume, which he said, but didn't prove, contained a report of the committee of the House of Commons in Ireland of that day, and he told you that that committee reported to the House of Commons that certain insurrectionary, disloyal, and rebellious associations had been formed, and he concluded by telling you that if he opened that book and read it to you, that the organisation of that rebellion, that criminal

organisation of '97 was the type and pattern from which the organisation of the repeal movement had been copied. Now, I arraign that course of statement as illegal---illegal in the highest possible degree; for no counsel, no matter what his rank may be, has a right, in a criminal case, to attempt to affect the minds of the jury against the party accused by his own unsupported and unsworn testimony. What right had the Attorney General, in point of law, or in point of justice, or in point of common fair dealing, to insinuate to you, or to tell you that if he read that book it would demonstrate that the repeal agitation was copied from the organisation of 1797, that had a rebellion for its object? What right had he to do that in point of law, or justice, or common fairness? I arraign that statement of his as unfounded---as a totally unfounded statement; and if his imagination traced for him, as I am quite sure it did, some likeness between the description given of the organisation of '97 and that of the present association, it was owing to his imagination alone, and he utterly deceived himself; and I think he felt that he had no right to put that book in evidence. I think he must have reflected very little on what he was doing if he thought he could contribute to the ends of justice by referring you to that book. If he had read it in evidence, I would have had it now in my hands, instead of never having seen it in my life except when I saw it with him. I would have had an opportunity of reading it from beginning to end, and of exercising my judgment and my imagination upon what I found in it, and showing you how totally distinct was the organisation of '97 and '98, from that of '43 and '44. The book then would be in evidence for all purposes, and would be open to observations from both sides, and it would prove whether the Attorney General's inferences were correct or not. But when he knew that book would not be read in evidence what right had he to refer to it in his statement, or to attempt to draw those monstrous conclusions from it, that this peaceful, moral combination, this legal association of 1843, was copied from that atrocious, that criminal rebellion of '98? Gentlemen, the Attorney General blinded himself; his zeal blinded him, it blinded him as to the facts of the case as well as to the law. He had much nearer home---much more obvious, that which was the true type of this association, and now let me implore your attention for a moment or two. Catholic emancipation, which virtually had torn and agitated Ireland by a moral contest, but not by a physical force contest, or a criminal contest, a sinful or an immoral contest---after twenty-nine years of a moral contest, Catholic emancipation was at last carried, and how? Give me your attention for a few moments while I detail it to you. A private gentleman, Sir Valentine Blake, of Menlo' Castle, a very ingenious man, fond of reading political acts of parliament affecting the rights of the Catholics of Ireland to prevent any constituency returning a Roman Catholic member as their representative. He proposed that plan, and I have not the least doubt that the Attorney General and other lawyers who hear me would say, that there was as little law to sustain that doctrine as the one that the Queen could issue writs and summon a parliament in Ireland; one was just as untenable in point of law as the other, and you will observe, as I go on, how striking is the likeness between the father and the son. Acting upon that suggestion,

which I believe Sir Valentine Blake himself communicated to Mr. O'Connell, the seat for Clare having been then vacant in 1829; Mr. O'Connell says to the people, "an act of parliament is not necessary to emancipate us; we will do it ourselves."---He says the same in 1843. We'll do it ourselves with the help of our little Queen. "Give me," he says to the electors of Clare, "your good assistance---never mind your landlords. I am qualified to be a member of parliament." And yet, gentlemen, that was not considered a crime; he was not prosecuted for that. He went down to Clare---the whole county got into a ferment---a ferment which had its foundation in law, peace, good order, and sobriety, which never had been before equalled in this country.---The whole population of the county came together as one man; they flocked in troops from all directions; their enthusiasm knew no bounds, and the landlords might as well have talked to the winds as to them. No temporal consideration that could be suggested could prevent them from voting for Mr. O'Connell. Persons who had come over from England to witness the contest, report its results to Peel and Wellington, and the emancipation bill was passed the very next session, although it was decided by the proper tribunal that Mr. O'Connell's election was illegal, and he was not permitted to take his seat. It very naturally occurred to Mr. O'Connell's acute mind that it would be a sure and politic measure in his repeal movement to have recourse, in order to the attainment of his object, to a similar course of proceeding to that which he had adopted in the struggle for emancipation, and it is to this fact that every thing is to be attributed that fell from him in reference to the revival of the old Irish parliament. Hence it was that he used such language. "This, your parliament, is not dead, but only slumbers. We want no act of the imperial legislature to procure its revival. Let the Queen only issue her writs, the Chancellor, you may take my word for it, will sign them, and then see how soon we will have a parliament in College-green." He wanted the people of Ireland to make a magnificent demonstration of moral power similar to that which was made on the occasion of the Clare election, when the people were bound together with such unanimity of peaceful purpose that they would endure the pain and ignominy of a blow rather than violate the peace by retaliating on their adversary. One man, and he was the most quarrelsome man in Clare, did actually bear the blow, and told the man who struck him that he would give him the value of his pig after the election was over if he would repeat the blow (loud laughter.) He wanted to have the people's mind brought to the same tone and temper in the year 1843 in which it was in 1829, and that circumstance fully accounted for every thing he had said in reference to the resuscitation of the Irish parliament. He told them that he was tired of speaking, and that he wanted practical measures, but he did not allude to deeds of arms. He told them expressly what he wanted. He told them that he wanted a council of 300 to sit in Dublin in order that the people's determination might be fully evinced, and when the popular mind had given itself the fullest expression, then the Queen was to be besought to issue her writs, and the legislature was to be requested to sanction the desire of the people to have a parliament of their own. He wished to institute in this country the same great moral combination which had been so successful in the year

'29—he wished to appeal for success to the same agencies by which Mr Peel, who gained his popularity in England by abusing the Catholics and resisting their emancipation, was induced to come into the House of Commons with the emancipation bill in his hands, and to use all his influence with the crown to get it passed. That, gentlemen, is the very origin and the rational explanation of Mr. O'Connell's plan, for the restoration of the Irish parliament; and I defy any man, with a fair and honourable mind, to whom this explanation of O'Connell's conduct is once suggested, not to be at once completely satisfied with it. I admit, and believe, that there may be many honest men who, differing from Mr. O'Connell in political matters, may have heretofore conscientiously believed that his objects were different from what they are in point of fact; but when once the mind of such a man has been brought to consider such an explanation as I have now given, which manifestly bears on the face of it all the characteristics of truth, I defy him not to acknowledge that the explanation is satisfactory. The counsel for the prosecution would have you believe that Mr. O'Connell, when he came to the time of the monster meetings, had his scheme ripening for a violent and treasonable insurrection in Ireland, for that he had in contemplation the training of people to military operations, not by nightly drillings, but inuring them to long marches, for that his meetings were held at a great distance from the respective houses of the people who attended them. By this means it was pretended that the people were habituated to march like the soldiery through the country. That is the interpretation put upon Mr. O'Connell's proceedings by the Attorney General; but if Mr. O'Connell had it in contemplation to appeal to measures of physical force, and to organize the masses for that purpose, is it likely that he would have repudiated and denounced the Chartists and Whiteboys. The co-operation of the Chartists would have been invaluable for the carrying out of such an illegal project. He might at all events have desisted from abusing them. He did not do so. If he had contemplated violence would such words as those have escaped his lips at a meeting of the association on the 1st January, 1843:—"He had received the most certain information that the societies which were established in England under the name of Chartists, or rather the branch of them named Socialists, were making the greatest exertions to spread their fatal principles through Ireland. He was not going to accuse the Chartists generally, or any thing like universally, of being Socialists, but a great number of the Chartists were Socialists in England and Scotland, and all the Socialists were Chartists. \* \* \* He was shocked to hear there were Socialists in Dublin, and every man must hear it with sorrow; it was the first time that such a misfortune had happened in Ireland. Hitherto they differed from one another in religious belief; there were Protestant, Catholic, Presbyterian, Dissenter, and Methodist, but they were all Christians. \* \* \* Wherever the repealers were strong they put down Chartism and Socialism. \* \* \* It was not in Dublin he was afraid of them, for there they could take measures to counteract their machinations; but they were going through the country and calling the people together, and using his name to induce them to join them. They said to the people, O'Connell wanted them to be ready, and they came down from him amongst them; but they lied, the villains, and from



that spot he denounced them. \* \* Should such miscreants as those, he asked, be tolerated, and was he not entitled to have the assistance of clergymen of every persuasion to put them down? \* \* He was convinced that those miscreants would practice upon the ignorance of the people, and lead them into secret societies for the purpose of betraying them. \* \* He proclaimed to them from that spot, that if they had anything to do with the Chartists or Socialists, they would put themselves in their power, and be made the victims of their plans. He trusted that the sentiments he uttered on the subject would be circulated through the country, and that the honest shrewdness of the Irish people would induce them to take hold of those incendiaries, and bring their acts to light." There is the language of a man who, if you are to believe the Attorney General, was at that moment organising his countrymen to make him the leader of an atrocious republic—of a man who, it is insinuated, had in contemplation the wicked and nefarious design of arming the father against the son, and the son against the father, if the father was loyal, and the son a rebel—of putting the rope in the hand of the executioner—the bayonet in the hand of the soldiers—the pike into the hand of peasant—of deluging his native land in blood, and creating scenes of anarchy and horror too dreadful for the human mind to dwell upon. Gentlemen, is that imputation to receive credit at your hands? As honest men, and as men of common sense, I ask your integrity, and I ask your intelligence, can you bring yourselves to believe that Mr. O'Connell, the darling of his countrymen, would now in his 69th year fling to the winds the peaceful principles which all his life he had been inculcating, and convert himself into an abominable incendiary, on whose grave the widow and the orphan shall spit in execration, and whose memory shall be accursed for ever more? Gentlemen, will you believe it? Look at the man, and say, has he any of the ingredients of the conspirator about him—look at the man, who for the last forty-six years of his life was in the habit absolutely thinking openly, and really expressing the sentiments of his mind so openly, that some of his friends could wish him not to do so. There was the man who was in the habit of speaking his thoughts and feelings, and yet he stood there branded as a foul conspirator. The man who all his life thought aloud, and no man could say that any man ever did so with so little loss to character as Mr. O'Connell did—he was the dark and infamous criminal conspirator that you are called on to believe he is. The name of conspirator was one of the foulest and most opprobrious that can be applied to a human being. The moment a man conspired to commit a crime, his mind would not stop there, but he would consent to the commission of another, and once the mind was entered on the foul road of conspiracy, nothing would stop him. Gentlemen, the definition given to you of the crime of conspiracy by the Attorney General was not the definition of any crime at all, for you must recollect that a combination or argument does not imply guilt, nor does an illegal act imply guilt, and I will prove it to you beyond all doubt from one of the best legal authorities, that neither of the above implies guilt. I am not now going to speak of the dicta of a judge—I am not going to cite one judge to mislead another by it; but I am going to cite what will bind all the judges in England—I am going to cite a long established rule in law, which was solemnly

argued and ruled by the judges, and which has never been controverted—it is the case of the King v. Turner, and others.

Judge Burton—Where is that case?

Mr. Fitzgibbon—In 13 East, page 228. He then went on to read the case, which was one where the defendants were charged with a conspiracy for going at night into a preserve to kill hares, and that they went there armed with bludgeons, &c. This case was decided in the King's Bench by Lord Ellenborough, who was as good as judge on all legal subjects as ever sat on the bench, and as fair a prerogative judge as ever adorned the English bench from the days of the English conquest down to the present time. I will request you, gentlemen, to remember that the case I am now about citing was a case where the eight defendants were indicted for a conspiracy, for unlawfully, wickedly, &c., and for illegal and criminal acts, &c. He read the indictment, which was one of the common form, and continued to say—I ask you was the project of those eight persons honest?—was it innocent?—in reference to the peace of society was it innocent?—as to the enjoyment of property was it innocent?—with regard to the spilling of human blood, which might have taken place in consequence of the bludgeons the parties brought if they were opposed in their career, was it innocent? Every man in society would say that in all those particulars the project was not innocent, and the case was brought before a jury who found the defendants guilty of the conspiracy. Subsequent to that verdict the court was moved to arrest judgment in the case, because the evidence did not constitute any crime within the meaning of the law of England. Even assuming that all the charges laid in the indictment were proved, it did not constitute a crime in the penal code of England. The case came on for argument before the full Court of King's Bench, and Lord Ellenborough delivered the unanimous decision of the court on that occasion. He said (alluding to a case cited,) “that was a conspiracy to indict another of a capital crime, which, no doubt, is an offence; and the case of *The King v Eccles* and others, was considered as a conspiracy to do an unlawful act affecting the public. But I should be sorry that the cases in conspiracy against individuals, which have gone far enough, should be pushed still further. I should be sorry to have it doubted whether persons agreeing to go and sport upon another's ground—in other words, to commit a civil trespass—should be thereby in peril of an indictment for an offence which would subject them to infamous punishment. “Rule made absolute.” It should be remembered that the parties in that case had entered into a man's premises at night to rob him of his property; and yet the court were unanimous in arresting the judgment. They went there with bludgeons for the purpose of intimidating any person they might have met. It might be said the present case was calamitous to the public; but that I deny. A party might be guilty of conspiracy, but that party must know the criminal acts in the mind at the same time, and that is the true distinction, because there must be a criminal act performed. There was no necessity to make the case double to obtain lawful ends by unlawful means. Crime may be defined in law books, but the law recognises no such thing as a definition because a jury was the only tribunal to do that, and I don't think you will have much difficulty in coming to a proper conclusion as to the charge of

conspiracy in this case and pronouncing your verdict of acquittal on it. What man in society would be safe when retiring to rest if he were to be charged with a conspiracy because he entered into an agreement with some other person to do some act that might be lawful, but which the parties agreeing might endeavour to effect by means illegal, but from which they might innocently dissent. The proposition was monstrous and absurd. You may be told of cases in point, and a lawyer may be as earnest in citing his cases as I am now in addressing you (laughter.) But I call on you to reject everything and anything I may have said if it does not challenge respect from your reason only.—There are, gentlemen, one or two other topics upon which I have to address you. Do not blame that my address has been so long. Believe me that I sincerely commiserate every one of you for being abstracted from your business, and while I do so believe me that I am myself an object of as much commiseration. Gentlemen, the situation of any man defending his fellow man from the imputation of a foul crime is an anxious one, and to be naturally of an anxious temperament, as I must acknowledge myself to be, it is a situation not devoid of pain; and when I tell you that for the last three days I have not eaten half a pound of food—that for the last three nights I have not slept for five minutes—I am sure you will feel that I am not unworthy of commiseration; and feeling my exhaustion to be increasing I would not without necessity lengthen the effort I have made, and perhaps endanger the loss of my life to a family the eldest of whom is not six years old. But as long as any thing remains unsaid which I believe is necessary to be said, as long as I have strength to support me on my legs. I will proceed; and I would retire to my bed unable to sleep for the remainder of my life if I felt that I left it unsaid. I hope, then, gentlemen, that you will not blame me if I should appear to be tedious. Another charge in the indictment is, that Mr. O'Connell and others conspired together to create disaffection in the army. The only evidence of that portion of the conspiracy is a letter written by a Mr. Power. Gentlemen, that Mr. Power has been served with a crown summons to attend here as a witness. If that letter—if the contents of it amount to an effort to destroy the affections of the soldiery to the government—that letter had for its object a foul crime. To tell the soldiery, whose duty it is without reflection to obey the orders of the intelligent minds of the persons under whose commands they are, and whom they are unthinkingly bound to obey. I say if that letter was written for such a purpose it is a criminal one; and the man who wrote it ought to have been prosecuted. I say so, assuming that to have been his intention—but, recollect, I am not saying that it was. And I think if you read it you will think so. If we had the author of that letter here it would be a triable case, one not requiring three or four weeks debating, for the jury would have a reasonable certainty upon which they might found a conviction or an acquittal. If it were written for a criminal purpose he should have been prosecuted; if the purpose were not criminal I am sorry it should have been brought forward here for the purposes of damaging those who had nothing to do with it. Mr. O'Connell is proved to have praised the serjeants of the army—to have said they were the finest men in the world—to have said that they ought to be officers, and that if he

succeeded they should. Thus, it is said, he thought to seduce the soldiery from their duty. Why, gentlemen, when you have two motives that may be ascribed to the accused, the one an innocent and a legal one, the other wicked, criminal, and illegal,—a jury of humanity are bound to acquit of the guilty motive. If they can reasonably adopt the innocent one; if they have no difficulty in adopting the innocent construction, they should repel the criminal charge. Let them remember that Mr. O'Connell was endeavouring to effect conciliation among all classes, peasantry and soldiery alike, and that one of the greatest means of inducing those connected with the Repeal Association of every grade to entertain those feelings which Mr. O'Connell wished to propagate was, the strong expression on the part of Mr. O'Connell that he entertained those feelings himself, and his object being to put an end to the smallest inclination on the part of the peasantry towards insulting or in any sort of way disliking the soldiery; and the showing that those peasantry could see an army among them without either feeling dislike to that army, or apprehension from it, was one of the purposes of Mr. O'Connell, in those demonstrations, as also to impress his hearers with a feeling of respect for the serjeants of the army. This language was not addressed to the army. No soldier—no serjeant was proved to be present, and do you think that Mr. O'Connell was fool enough that certain expressions of his, used for a different purpose, should, when conveyed through the newspapers to the serjeants of the British army, have the effect of winning those serjeants from their allegiance and their duty? It is perfectly ridiculous to think so. But, gentlemen, Mr. O'Connell did not keep in his breast his sentiments in relation to any sort of tampering with the army. Accordingly, at the National Repeal Association on the 14th of September, 1843, when his plot was ripe—when everything which he had ever said in praise of the serjeants was long published; when everything had been done by him that could possibly be supposed as intending to seduce them, the subject came on incidentally before Mr. O'Connell; and now let me read for you when the subject came before him indirectly, what he does say in relation to it. The learned gentleman then read the proceedings at the Repeal Association on the 14th of September, 1843, by which it appeared that Mr. O'Connell had forbidden any person connected with that body to interfere in any way whatever with the soldiery. Now, gentlemen, continued the learned counsel, I pray your attention to the period at which Mr. O'Connell thus plainly and publicly, wholly and distinctly repudiates, disavows, and prohibits, any intention of any kind with any member of the army. That was Mr. O'Connell's object. No nation fit for liberty could entertain a feeling of hostility to the armed force necessary for the government of the country. The Irish had been accused of entertaining such a feeling, and Mr. O'Connell wished to force it out of their minds, and therefore held up the serjeants and the whole army as a body of men not deserving dislike, but as a body of men deserving love, respect, and affection. Why should he not be so interpreted? The whole course of his life; the whole torrent of his eloquence; every thing he has ever said, and ever done had for its object the establishment of love, order, and good will, amongst his fellow-men. Every abusive expression he ever uttered I can trace to what he thought was some political act of

turpitude on the part of some individual. He has, no doubt, often too strongly, and often censurably, expressed his dislike of political sentiments not agreeing with his own; and don't think I am here to defend him for what he has done wrong in that respect. I don't want you to attend to my argument, if I am so uncandid as to stand up to defend that which I think cannot be defended, when he so far forgot that benignant nature which, beyond all doubt, belongs to the man. Another imputation in this case is the collection of money. And I hope, before I sit down, to convince my friend Sergeant Warren that that money has been collected, not as the chessnuts have been drawn out of the fire, but fairly and legitimately collected. And I cannot advert to that unseasonable joke which I have dealt with as an act in this case without at the same time expressing to you what I feel, that I don't believe there is a man in existence whose benevolent mind, and expanded and dignified understanding, and whose humane heart will be more thoroughly open to conviction, when any man pleads before him the innocence of a human being than Sergeant Warren is; and believe me, gentlemen, when I came down on his joke with such severity as perhaps I did, I meant to apply my observation against the joke, and against any injurious effect which it might have on my client's interests in this very trying case.---Although I never can admit that a jest, no matter how innocently intended, in the slightest degree calculated to prejudice a man on his trial, I never can admit the propriety, under any circumstances, of such a jest; and although I hope I shall never flinch from the duty of coming down with all the little force that nature and art has given me on a jest under such circumstances, I hope I shall convince you that everything severe I have said of it was said only of the paltry thing itself, and not one word of it was said of the truly dignified and amiable man who for a moment forgot himself when he uttered it. Ours is a peculiar state of society—justice which should be common to all men—free as the air we breathe—priceless as the water which we drink—according to the human ordinances it happens to be physically and absolutely impossible to get it if you have not money. Courts of justice, as Horne Tooke said, not intending to abuse courts of justice, or bring them into disrepute, are open to every man. No doubt they are, and the London tavern is open to you, too, but you must have the price or you cannot get the expensive article. Because to ascertain what justice is, requires the aid of scientific, educated, and talented minds, and that aid cannot be procured without paying them for exercising the calling they are brought into. It is as impossible for a nation as for an individual to bring its case within the portals of the proper courts of proper jurisdiction, without having the golden key to that temple also. It is impossible to collect the signatures to a petition, intended to be the petition of millions, without an enormous expense. It takes a hundred thousand pounds to canvass the county of York, yet the county of York does not contain a tithe of the inhabitants of this country. It is quite plain that, in order to procure that which Mr. O'Connell frequently said they must have, discussion, that is as necessary as the parchment for their petitions. That is known to every political party in this country; and I doubt whether there is a warm Conservative in it, either at the bar or on the bench---either in the cellar or in the palace, who has not contributed his money

towards what he considered to be the cause of the country and the interests of the country ; and when they were out of power, I would like to know the amount of money they collected to get back again—I have no doubt believing their restoration to power to be for the good of the country ; and I am sure no person was ill-natured enough to say they were making cats'-paws of those that were giving them the money ; and certain I am that my learned friend, Sergeant Warren, when he used that little joke, was not prompted to it by any ill-nature. There is something, gentlemen, irresistible in the uttering of a pun—hardly any man can resist it ; and hence it happens that punsters have an immense number of enemies, that might otherwise be their friends. But are you not dealing here with the question whether the collection of of this money was justifiable or criminal. You are called upon here to find by your verdict—whether it was justifiable on the part of those who sought for repeal, believing it to be good for society at large, just as the Conservatives believe the union to be so. I would give every man of them credit for believing it, and thinking he is acting according to his duty as a patriot. But I only ask you to put on the same footing these funds that are collected for the purpose of bringing into discussion the opinions of a people so numerous, so rational, and so honest, and entertaining those opinions with every bit as fervent a zeal. That is all I shall say to you on the subject of collecting the money. Now, there is just one other subject that has not been touched upon yet, and that is, the arbitration. It is said in this indictment that those arbitration courts were devised by conspiracy—criminal conspiracy—for a criminal purpose, that criminal purpose being to bring into odium and contempt the constituted courts and tribunals of this country. Now, gentlemen, in the first place, if you can believe that any of the traversers in his own breast entertained so illegal, so immoral, so criminal, so foul, so uncharitable a purpose as that, come down upon him with the heaviest censure that your minds can bestow, and you have my concurrence. But unless you believe that they so entertained that diabolical purpose of bringing into contempt, odium, and disrespect, those without respecting whom—without venerating whom it would be impossible for any society to exist ; unless you believe that that wicked, illegal, and immoral purpose was made the subject of a criminal conspiracy between two or more of the traversers ; unless you believe that two or more of the traversers did criminally combine to carry that unhallowed purpose into effect. I care not by what means, no matter whether any one of them—no matter whether every one of them in his own mind entertained such a purpose, you cannot unless you believe that they conspired to effect it, find them guilty. Now, in the first place, have you any evidence that any one of them ever entertained such a purpose ? Where is the expression of any one of them of any such purpose—of any such feeling in relation to the constituted tribunals ? At some of those meetings some one or other, I really forget who spoke about not liking the Saxon ermine, and so on. Gentlemen, that was improper language. Why ? Because it was open to be misinterpreted. I don't think the man who uttered it, whoever he was, meant to say that the judges of this country were Saxons in ermine, that ought not to be respected and revered as

judges. It was hyperbole---censurable hyperbole---but it was not the crime of conspiracy. It was not any of the traversers uttered it. What did they do? They instituted those arbitration courts. Now, just for a moment attend to me while I bring fairly before you the whole of the matter. The Chancellor, believing it to be proper and right---believing it to be his duty to the country---I have no doubt he did think that magistrates who attended those repeal meetings were unfit to be justices of the peace in Ireland, and accordingly he withdrew the commission from every one that attended those meetings. Others of them took umbrage at this, and they resented it. The act led to a good deal of angry discussion, and a good deal of unjustifiable language was no doubt used in reference to it. The act of the Chancellor was dealt with in many publications in terms not expressing that respect he is entitled to. He is entitled to respect, not merely by reason of the place he holds, but from the manner in which he fills it---a way in which it was scarcely ever filled before, by legal acquirements which seldom ever belonged to a lawyer in this country in his position. Do not imagine that I stand here to palliate or justify in any way the language of any newspaper, of any man, or any party, or any association, upon any act judicial or ministerial performed by such a functionary. But the act was calculated to beget anger, and it did beget anger; but it produced no other effect except to beget anger. That, however, did not establish a conspiracy, nor did it exhibit a diabolical determination to bring into contempt the judicial tribunals of the country. When the magistrates were dismissed by the Chancellor, the people said in their turn that they would be up with him by-and-by, and they accordingly made arbitrators of those dismissed magistrates, for the purpose of deciding their differences with their own consent, but not of entertaining any cases except where both parties agreed to refer the matter in dispute to their adjudication. There was not a meeting of these arbitrators held throughout the country that was not publicly advertised; every man in the community knew that it was to take place, and every policeman in the district was at liberty to attend at them and observe what was done; and yet the crown produced but a single policeman, who swore that he found Mr. John O'Connell and Dr. Gray sitting at the Rock, waiting for suitors, and that he was treated with every respect and attention, and not interfered with. Now, if that was illegal, the *Ousel Galley* would be illegal, and it is not. They have their forms, and they will give them to you if you want them; and if a man comes before them he must be bound by their rules, and they will not allow him to depart from them, and they will make him pay them their fees, which are in the first place applied to the expenses of carrying on the tribunal, and the residue is applied to charitable purposes, and there is nothing wrong in all that. The adoption of these courts only shows the peaceful determination of the Irish people to forget all past differences, and settle any disputes that may arise between them through the intervention of these arbitrators---and there is nothing illegal or wrong in that. Gentlemen, I should not think it necessary to occupy your time at any greater length on the subject but that it is suggested to me to remind you of the Quakers, who settle all their differences by arbitration. They don't go to law with each other. If they did, except in those cases reserved by the society, they would be expelled---they would be read out

of meeting, and there is nothing illegal in all that; God forbid there should. Now, gentlemen, I think I owe you some apology for the length of time I have occupied your attention, and having expressed that to you, I could sit down in this case with some peace of mind, having, to the utmost of my ability, and that is all that could be expected from me—done my duty to my client. I say I would sit down with a quiet mind if I had been permitted, without interruption, to finish what I had to say, and to the latest hour of my life I shall regret that I was not. I had originally intended to conclude what I had to address to you without any explanation on that head, if it was not for the incident which occurred that induces me to act otherwise. I shall regret that incident to the latest hour of my life, not only on account of any injury it may do to myself, but because I fear nothing can prevent its doing some injury to one whom I would not injure—to one, to whom I would suggest to him to ask his learned brethren what I stated of him in this prosecution, how I spoke of him in private, and how I commented in the presence of his political friends.

Mr. Sergeant Warren—I would respectfully submit to Mr. Fitzgibbon—

Mr. Fitzgibbon—It's better you should hear me.

Mr. Warren—I think it was arranged by the court that both parties should forget what had occurred.

Mr. Fitzgibbon—You had better hear me. When Mr. Smith was misunderstood, and, therefore, misrepresented in a very material matter, of which an explanation was given, and of which an explanation ought to have been given in his favour—it was stated that when he instituted these prosecutions he designated them as a foul conspiracy, and declared that he would show it to be such before the public. I said, at the time, that he was misunderstood, and that he was not speaking of the traversers case, but of the prosecution against Hughes, and that it was that which he designated a conspiracy. I felt it, and knew it to be my duty to comment, without reserve, upon the statement which I heard from the Attorney General, as far as that statement affected the interests of the gentleman who had entrusted me with his defence. In the commencement of my speech I told you, gentlemen, that I felt it to be my duty so to do, and I charged you not to misinterpret what I said, but to regard whatever might fall from me in the course of my address, not as my language, but as the language of my client—not directed personally against the Attorney General, but against such of his official acts as might appear to him worthy of reprehension. My lords, I cannot say that I was perfectly satisfied with what took place here yesterday, and I will tell your lordships why. I regretted then, and I shall never cease to regret, that the Attorney General did not speak to me, and tell me that I had wounded his feelings, I wished to set him right—I wished to set myself right—but that has not been done, and therefore I am not satisfied. No human being has spoken to me on the subject since its occurrence, but it was not satisfactory to me because I hear it was not so to him, and because justice was not done to him as a lawyer and a gentleman. For my part I do not think that justice was done to him. In a moment of irrita-



tion he placed himself in a false position which did not belong to him, and ought not to belong to him. I told him he had done so the moment I received his note, and the first impulse of my heart was to give him an opportunity and to solicit him to accept it for realising himself from his painful and unnatural position. I offered him back his note---I implored of him to take it back, but unfortunately, labouring under the same unhappy irritation, he refused to do so. This placed me in a peculiarly painful and very awkward situation. I could not go on with my professional duty while things were yet in that state, for it would have been impossible for me to have done justice to my client while the feeling was on my mind that the Attorney General had intended to insult me, thinking that I had intended to insult him. My next impulse was one to which I will rejoice till the latest hour of my life that I did not yield. It was to put his note in my pocket, and go on with the case; but it was then suggested by Mr. Moore, who acted throughout with the most honourable feeling, that the matter should be opened to the court, and I readily acquiesced in the suggestion. I did so under a sense of duty; but I am deeply sorry, and shall be so to the last day of my life, for the false position in which these facts, which occurred without my consent, have placed a man, of whom I said in the opening of my speech that he was a gentleman in the best sense of the word, and a lawyer in the most dignified sense of the word, and I can safely say that, neither on yesterday, nor at any other period of my life, since first I knew the Attorney General, have I ever uttered a word in allusion to him with the intention of wounding his feelings; I merely discharged my duty to my client. I dealt with the Attorney General as the officer of the crown; and if he had been my own father, I, as a lawyer, and as a party conducting one side of this prosecution, would have spoken of him with the same severity. My lords, I am naturally an ardent man. It is but too plain that I am so. I forget every consideration of self in my zeal for the client who has confided his interests to my charge. I feel that I do so in too high a degree, but it is my temperament, and I cannot help it. The Attorney General is not deserving of censure, nor did I ever intend to censure him for the little impropriety into which his unhappy irritation led him. I earnestly trust that this will be satisfactory to his feelings, which I am exceedingly sorry for having wounded. My lords, that is all I have to say, and I trust it will not be said that I abused the patience of the court.

After Mr. Fitzgibbon had resumed his seat there was a pause for a brief period, and there appeared to be a general expectation amongst all in court that the Attorney General would address the bench. The right hon. gentleman, however, did not make any movement to indicate such an intention.

---

#### THE FIFTEENTH DAY.

Mr. Henn, Q.C., on their Lordships taking their seats, said---I am instructed, my lords, to submit, on the part of the traversers, that we conceive, according to the true construction of the act of parliament, the court

has no power to proceed with this trial, the term having ended. We merely wish to mention it to your lordships that if you be of a different opinion you may take a note of our objection.

The Chief Justice—Oh! certainly.

The jury and traversers having been called over, and respectively answered to their names.

Mr. Whiteside, Q. C., rose to address the jury. He said—May it please your lordships, and gentlemen of the jury, in this case I appear before you as counsel for Charles Gavan Duffy, proprietor of the newspaper called the *Nation*. I could wish my client had selected his advocate from my brethren of the bar, where so many are to be found my superiors in every talent, and every acquirement; my sense of inferiority is increased by the disparity between my humble abilities and the task committed to my charge. Nevertheless, assured of your patience—convinced of your indulgence—satisfied of your anxiety to hear candidly what may be urged on behalf of the accused, from whatsoever quarter it may come—I gain resolution from my confidence in you. The solemnity of this state prosecution would be enough to bespeak your considerate attention. The principal involved in the issue—the all-pervading anxiety of the public—the very nature of the accusation itself—combine to mark out this as a question of no ordinary expectation. My anxiety is so to place before you the merit of my client's case, that truth may prevail, and the cause of public freedom triumph. I will not, at the outset, disguise from you that the result of this case is regarded by me with trembling apprehension, not from the vulgar terror of popular indignation, or an outbreak of lawless fury, because the arm of government is powerful enough to repress and punish such excesses. My apprehension arises from a better motive. I feel the importance of your decision. I am anxious for the character of our common country, for the purity of its justice, that your decision may be consistent with the principles of a free constitution and may rest on the immovable ground of truth. Be assured, gentlemen, this day's proceedings will be scanned by the opinion of enlightened England, and whatever other country possesses freedom. As far as human infirmity will permit, discharge your duty unflinchingly between the crown and your fellow-subject. Be tender of that subject's freedom, and your decision will be approved by your own consciences and by all just men throughout the world. ~~Gentlemen,~~ you are not empannelled to try the traversers for their political opinions; the soundness or unsoundness of their views, the policy or impolicy of their proceedings; the possibility or impossibility of their projects being carried into execution, form no part whatever of your inquiry. Still less do you sit in judgment upon the style adopted by a political writer, or upon the taste exhibited by a popular speaker. Yours is a more severe duty than that of the moralist or critic, although you are satisfied that the speeches made were intemperate and rash; and although you may condemn the character and style of many of the written productions in evidence before you, and disapprove of the general objects in view by many of the parties accused this day, still there is not the least conceivable approach made thereby as to the decision of the question of their guilt or innocence on the particular subject matter charged by the present indictment.

Crime is what is alledged against the defendants, and crime of a defined character; and if that peculiar crime, as is described and explained on this face of the indictment, be not clearly and distinctly proved, no matter of what supposed offence the traversers, or any one of them, might by possibility be suggested to be guilty, still you would be bound to acquit them on the present indictment. To find a man guilty on one charge, because there may be a surmise of the possibility that he might be accused of another, would be to violate the law and justice of the case, from the strict line of your duty you will not swerve. You are not—I say this with deference—to remember any one word spoken or written by the traversers, or any of them, which has not been proved in evidence against them on the present occasion. The crime of which they are accused is that of conspiracy. In the proper acceptation of the word, there is nothing criminal involved in it. It means: having one spirit; and the prevailing idea conveyed by it is, that of a common sentiment amongst men for the accomplishment of a common object. Now, a community of sentiment on political subjects is not criminal. Associations exist for purposes literary, scientific, religious, and political. Their object is to accomplish a given end—to concentrate opinion, and strengthen that opinion—to bring it to bear on a particular subject, and by means of that concentration obtain, perhaps, benefits, and blessings, that would not otherwise be accomplished. Governments are naturally quiescent; they are repugnant to change, and adverse to popular movements; and it requires very great efforts, and very great concentration of opinion, to obtain from government that which, when it is obtained, all parties regard as a benefit and improvement. It is by that means that the wisest reforms have been effected, the grandest triumphs in humanity have been so accomplished, and the wisest projects that ever entered into the human mind have thus been gained. In ordinary cases, when men are charged with a particular crime, they are to be tried if they are guilty of it on what they have themselves done, and on what they have themselves written; and the evidence to convict them must be given under strict, rigid rules prescribed and fixed by law. But, as you have seen, there is in this crime of conspiracy a latitude of proof permitted which your own experience as jurors tells you would not be suffered in any other proceedings. One man is sought to be affected here, not by what he has himself done, spoken, and committed, but by what other men have done, spoken, and committed. That an individual should suffer for the consequences of his own speeches and actions is natural and right, because he had power to control the one and regulate the other, but it would seem to be difficult to understand the justice of the rule that fastens guilt on one man, not by what he has himself done against the law, but by what has been done by other persons at a distance, over whose movements he had no control—whose tongue he did not license—whose tongue he could not check or silence, and over whose actions he had no authority or power. If in ordinary cases that observation is founded on good sense, it is of infinitely more weight when you come to apply it to a charge of political conspiracy. There it is necessary for a jury to be infinitely more on their guard, for the incautious language—the improper actions of one man may

be sought by a good administration, or by a bad one to be visited on another that may be obnoxious to either. It is our blessing to live under defined laws, that point out what we are to do, and what we are to avoid, that show our responsibilities, and how we may escape those responsibilities, and comply with the requirements of the law. Each verdict of a jury that tends to make our duties and our rights more complicated, more involved, more obscured, tends to endanger the liberties we possess. The indictment here is solely for a conspiracy, and I cannot praise it much as a work of legal ingenuity or art. You might imagine the legal artist possessed of much bodily strength, and armed with a huge scissors, placing before him several files of newspapers—the *Freeman*, the *Nation*, the *Pilot*, the *Post*, the *Mail*,—and plying his task with no charitable spirit, but with indefatigable zeal, speeches are clipped by him of all inoffensive matter, biting passages of leading articles are carefully cut out, reports of speeches at public meetings given more severely than the speakers of the speeches intended, letters of angry correspondence written at long intervals of time are given in full, the prose of the indictment is embellished by an extract from a transatlantic speech made by the son of President Tyler, and the whole is wound up with a song (laughter). The traversers were accused of having conspired to excite discontent and disaffection among her Majesty's subjects. He should have occasion to comment on every part of the indictment. The terms of that indictment were, "that the accused had devised to raise and create discontent and disaffection amongst the liege subjects of the Queen, to promote feelings of ill-will towards her Majesty's subjects in England, to excite disaffection in the army, and to cause large meetings to be held for the unlawful purpose of obtaining, by means of intimidation to be thereby caused—by means of the demonstration of great physical force at such assemblies, to bring into hatred and disrepute the Courts of Law established in Ireland, with the intent to induce her Majesty's subjects to withdraw the adjudication of their differences with, and claims upon, each other from the cognisance of the said Courts of Law established, and to submit the same to the judgment and determination of other tribunals to be constituted and contrived for that purpose." Now, it was that single crime of conspiracy that the jury had to try—they were to ascertain whether the accused were guilty of having entered into a conspiracy to do the precise acts, the very specified things described and particularised in that most extraordinary, unprecedented, and unheard-of indictment. The Attorney General—whom he thought had stated his case with great moderation and temper, and, he would add, with firmness and candour—the Attorney General commenced his address, as might have been expected, by a statement of the principles and the authorities which he said were necessary to explain the subject matter of accusation. As to general principle, they afforded but little opportunity for dispute. It was the application of those principles to the facts of the case which he (Mr. Whiteside) should comment on, and he would say, with great respect, that the defect in his learned friend's temperate and judicious statement consisted in this, that having adverted to certain principles, which he did mean to dispute, and having read numerous extracts which appeared applicable, he did not see by what clear reasoning he (the Attorney General) collected his valuable matter so as

clearly to demonstrate a charge of conspiracy. He would take the liberty of saying something as to the cases cited. As to the short definition of conspiracy that had been given, no doubt could be entertained. Conspiracy meant the accomplishing a legal object by illegal means, or an illegal object by legal means. Gentlemen of the jury, the first case quoted, the *King v. James*, had not the least analogy to the present accusation. It was an indictment against a bankrupt, charging him with conspiracy to conceal a part of his personal estate, and that an illegal act had been committed. Lord Denman stated that that indictment ought to show that an unlawful act had been done by unlawful means. Certain it was that the indictment in the present instance did not so demonstrate. In the second case adverted to, several persons dined together; they pursued that common object with industry and perseverance (laughter); they agreed to sup together; they confederately pursued that common object also with perseverance and industry; they finally determined to go to the play, and having gone to the play, one of them, having a rattle, rattled it; another having a whistle, whistled it; a third had a neck of a broken bottle, and he suffered his ultra-Protestant principles to go so far that he threw it on the stage at the theatre. They were all tried for a conspiracy. The grand jury ignored the bills. The Attorney General, nothing daunted, referred the matter to a jury. The formidable case of conspiracy was accordingly tried, and no verdict was returned, except that acquitting Mr. Brownlow. The next case he conceived to be more applicable. It was the *King v. Murphy*, and it was stated—"If you believe the acts done were done without a common design between the parties, this charge of conspiracy cannot be supported. The common design—that is to say, to do an illegal act specified—is the root of the charge; if you find that these two persons pursued by their acts the same object, often by the same means, one performing one part of the act, and another performing another part of the same act, so as to complete it with a view to accomplishing a certain object, you are at liberty to draw the conclusion that the parties were engaged in a conspiracy to effect that object." He had to observe that the object to be gained was, in the case just cited, an illegal object, because the persons agreed together to prevent the collection of a certain rate, and to obstruct an individual in his duty—that is, the collection of the rate—and to take from him the property he had seized. The object, he repeated, was an illegal one, and it was declared that one person at one moment having done part of the act, and another having contrived to complete the act, they (the jury) then were at liberty to come to the conclusion as to the conspiracy, and the persons were accordingly found guilty. The next case quoted by the Attorney General was to be found in Carrington and Payne's Reports. The first count declared that an unlawful and seditious opposition to her Majesty's Government had been committed. The second count charged the parties with having "induced a number of persons to assemble and meet together, for the purpose of exciting terror and alarm in the minds of her Majesty's subjects, and by means of such terror and alarm to procure great changes to be made in the constitution of the realm as by law established, and to annoy and alarm, disturb and prejudice, divers subjects of the Queen in the peaceable enjoyment of their property."

In that case certain policemen were asked whether, in point of fact, any body in the kingdom had complained to them of alarm being inspired in their minds by the general character of the meetings. In the course of evidence a Mr. Roberts stated that several persons complained that they were alarmed at those meetings, and requested him to send for military assistance. On that evidence the parties were found guilty. Their lordships would please to observe that, according to the authority of that case, it became competent to ask each policeman examined in the present matter of conspiracy, not only whether anything occurred which was calculated to excite alarm, but whether that alarm had filled the minds of certain persons during the proceedings which took place. The next case to which reference had been made was one in which the accused (Stone) was charged with conspiring against one Jackson, who died, while on trial, from taking poison. Evidence was given to connect the accused with another man of the same name residing in France. Jackson had received a letter on the subject, and Lord Kenyon at first conceived that the act of another person could not be given in evidence against the prisoner. Mr. Justice Buller was on the Bench, and on the second day Lord Kenyon said he was satisfied that the letter was admissible. That letter was given in evidence, and the jury impressed with a sense of the danger of finding one man guilty for the act of another, gave a verdict of acquittal. The next case to which reference had been frequently made, was the *King v. Redhead*, to be found in "*Howel's State Trials*." In that case the matters relied on in proof of conspiracy, were explained by proper averments. The Attorney General had relied on a certain passage in the charge of Justice Rooke, to which he (Mr. Whiteside) would take the liberty of directing attention. It was to this effect:—"He supported his speculative principle of Annual Parliaments and Universal Suffrage, and suppose he has uttered no more than what may be found in the speeches of such men, as the late Lord Chatham, Lord Camden, Sir George Joinville, Archdeacon Paley and others, and it is very true they have done so, and we believe in charity that they have honestly done so, but when these speculations are gone forth in a large assembly, it will be for you to judge whether you will give him credit for the innocence of his exertions, whether he did not address them with a view to inflame their minds and their passions." In the case in question the prisoner was found guilty. Now he did not perceive the justice of that distinction drawn by the learned Judge in reference to that case—namely, that a great man might broach opinions which a man in another position in life could not broach. There was no law supporting such a distinction, and the learned Judge had not stated the true doctrine of the constitution. He would now direct the attention of the Jury to the language of an eminent judge in Watson's case, recorded in the 32nd vol. *State Trials*—"It is not necessary," said Mr. Justice Buller, "to elicit positive evidence from persons who heard the conspirators consult, if you should find that a certain plan was entered into, and you shall be satisfied from what was done that there was a conspiracy to do certain illegal acts, you may then draw the conclusion of conspiracy." In that case the Jury had the good sense to acquit the prisoner. In the next case referred to, *Bedford and Birley*, an action was brought against the military. The learned Judge said, "If they acted on a warrant they were them-

selves under the circumstances of the case justified; in truth, these persons would be entitled to their acquittal, acting as they did in pursuance of the warrant, although the parties granting the warrant might not." In support of the plea in that case, evidence was required as to whether a person felt any alarm during the proceeding of the meeting. He was asked whether he would go with these persons to get a big loaf or a little one. They said they would have reform in Parliament, and make their way to London to effect that purpose; and that they would make use of the property of anybody who had property on their march on the road. About 700 of these persons proceeded to drill. Evidence was also given by a person who signed a paper, which he sent to the magistrates, expressing the terror and alarm which he experienced in consequence of those parties meeting for drill. It was also proved in evidence (page 96) that impressions of terror and alarm were made on the inhabitants by a meeting at which Hunt presided. In page 99 of the charge it is said—"In one of these counts drillings are alleged, which are stated to be clandestine, but whether they are clandestine or not I give no opinion; but if done for the purpose of overawing the government, or exciting tumult or resistance to the civil power, they would be unlawful. It is also alleged that divers of those persons assembled unlawfully, armed with stones and various weapons, to carry out this conspiracy." In page 102, he says, "If they came armed, so as to terrify other persons, that in itself would be an unlawful assembly." His lordship then referred to the memorable case of Lord George Gordon, and the vast meeting of people in St. George's Fields, and said—"There were called together an immense number of persons in St. George's Fields. (Kennett was then Lord Mayor of London.) They met for the ostensibly legal purpose of petitioning parliament to repeal the acts passed in favour of Roman Catholics. Lord Gordon went with their petition to the House of Commons. They accompanied him there. There was nothing amiss in that"—70,000 or 80,000 people meeting in London, and speeches being made in a very vehement, if not in a very violent manner, and then going *en masse* to the House of Commons, was not amiss—"except it was indiscreet, because it had the appearance of being tumultuous; and if they were not satisfied with the result, some of them might break forth into acts of violence." They were not satisfied; they broke out, and we know the result—confusion in London for an immense number of days. He (Mr. Whiteside) would not trouble their Lordships by stating the judgment of the court on the matter of drilling. In the case of the King v. Hunt, 3d Barnwell and Alderson, the parties were indicted for a conspiracy. The evidence was not given in the report; but the result was given, which was, that the accused were acquitted of the conspiracy, but found guilty of being at an illegal assembly. He (Mr. Whiteside) had procured a report of the evidence, with the view of showing on what evidence the court and the jury came to such a conclusion. The learned gentleman then produced a history of the "Life of Henry Hunt," which contained an account of his trial, from which he (Mr. Whiteside) read the evidence of several witnesses examined for the prosecution. The evidence was to this effect—that a meeting was held in Spitalfields, London, at which a series of resolutions were adopted. The first of these was, that if the grievances of the people were not redressed within a given day, and the

parliament reformed, they (the persons composing the meeting, would be all released from their allegiance. That Mr. Hunt presided at that meeting, and afterwards at a meeting in Manchester, at which the same resolution was proposed and carried. It was also resolved that they should meet together to elect representatives for Manchester. They did so without any writ from the Crown, and the magistrates declared that meeting illegal. On the night of the 14th of August, 1819, they met on White Moss, where they were drilled. Two policemen were present, and having been discovered, were severely beaten; but their lives were spared on their promising never to be King's men again, and never to name the King's name during their lives. On the morning of the 16th they met in Manchester. They came to the place of meeting with flags and banners, marching in military array, with sound of bugle, &c. Threats of making a Moscow of Manchester were heard. Several mottos of a seditious character were inscribed on their banners, and great terror and alarm was excited. A controversy arose on the trial as to how far all the persons at the meeting were affected by the inscriptions on the banners. Justice Bayley, who charged the Jury, observed on this point—"With respect to the banners, those only who showed that they were favourable to any motto inscribed on them by carrying them, or immediately marching under them, could be considered as liable to any penalty which the illegal nature of any of the inscriptions might warrant. He (Mr. Whiteside) called particular attention to that part of the charge, because in the present case evidence was adduced of an arch that was erected, on which was a motto, and that motto was brought forward as evidence of the illegal intentions of persons going to that assembly. Having commented with severity on the resolutions passed at the meeting at Spitalfields, the case went to the jury; and on that charge and those facts they acquitted the defendants of the charge of conspiracy, and found them guilty of attending an unlawful assembly. The learned gentleman next referred to the case of the Queen *v.* Vincent, 9 Carrington and Payne, p. 91, a case which the Attorney General did not cite.

The Chief Justice---He did.

Mr. Whiteside said it was another case of the same nature in the same book. In this the defendants were charged, first, with having combined together maliciously to assemble for an unlawful purpose. The second count charged them with having assembled in immense numbers armed with weapons; and with having caused great terror and alarm to the peaceable and well-disposed subjects of her Majesty, for the unlawful and seditious purpose of offering unlawful and seditious opposition to the Government and constitution, and to the terror and alarm of the subjects of the Queen. Another count charged them with assembling with clubs, &c. The 12th count charges them with being at an unlawful assembly; and the 13th for a riot. He wanted to show that, in this case, the same result followed, and that those counts which were not found in the present indictment were those on which, according to the authority of the learned judge and the finding of the jury, a verdict was had. The learned gentleman then read portions of the evidence given in the case of the Queen *v.* Vincent, to show that violent language had been used at a public meeting at which the defendants were present, and that the inhabitants were put



into a state of great terror and alarm. Vincent, in his speech, had described the system of government as cannibal and atrocious—that it doomed men, women, and children to toil in factories, in starvation and nakedness, to increase the wealth of the aristocracy. The snowball of Chartism was increasing in size, and he called on the people of Newport to roll it down on their oppressors and crush them. He had also threatened the magistrates with violence, and wanted to purchase a large quantity of arms, muskets, cutlasses, pistols, &c.—from a commercial traveller, named Johnson. Baron Alderson said that any meeting assembled under such circumstances, or likely to produce danger to the tranquillity of the neighbourhood, was an unlawful assembly. He then alluded to the petition to obtain the five points of the charter, which points went to a length that sensible persons would think inconsistent with the constitution of the country. Gentlemen, nothing is more unfair than to take part of a speech without taking the whole. In doing so you will be unable to judge justly, for there may be many passages which modify others and change the entire meaning of a sentence. “God be thanked,” says the Learned Judge who presided over the Chartist trials, “that the constitution does not forbid men to meet peaceably to petition the Queen. It is the inalienable right of the subject, and surely it is not now to be usurped.” It is not evidence to be given against a man for a conspiracy, namely, that he attended a meeting, if that meeting be not illegal. Neither are the acts of another who may have been guilty of violence to be offered in evidence against a man for attending a legal meeting. He is not accountable for such acts, and cannot be made so. Now is it evidence of a conspiracy that a number of persons propounded the same doctrines for the accomplishment of the same object. You must convict them of one and the same conspiracy, and of one and the same act, in different counts, if you will, but it must be proved that they have combined to effect an illegal act, or a legal act by illegal means. On the banner which the Manchester rioters bore before them was inscribed---“Englishmen, the blood of your brothers reddens the streets of Preston, and the murderers thirst for more;” and on another banner was inculcated the observation of peace, law, and order; but it was decided that such an inculcation was absurd, as their acts were to be evidence of their intentions, and their acts did not correspond with the words which expressed those intentions. Let us see, before we go further, what you are to find the party guilty of. Is it that they have agreed together for the furtherance of a common object? No. But that they confederated and conspired, by a complete union of purpose, and a premeditated plan, to do any of those acts charged in the indictment.

Judge Perrin---You don't mean to say that they must find them guilty of every overt act?

Mr. Whiteside---No, my lord.

Judge Perrin---I was afraid that the jury would misunderstand you, Mr. Whiteside.

Mr. Whiteside---I thank you, my lord. I say that they must find them guilty of the whole of the conspiracy, and that these acts were the result of a fixed and settled confederation.

Judge Burton---Has that report of the Chartist trials been authenticated?

Mr. Whiteside—It has been published, my Lord, by Mr. Feargus O'Connor. He says that he is quite satisfied that he has been tried by law and punished by law. The report was taken in short-hand. There has been no evidence produced that the acts charged were done in accordance with a previously-arranged plan. My friend Mr. Duffy wished to accomplish the repeal of the Act of Union, which I need not tell you is a perfectly legal act, for no one Parliament can make a law which another cannot repeal—otherwise the Legislature would be cramped, and posterity would be bound by a number of unjust and oppressive laws. The act of Mr. Duffy is received in evidence because he is on his trial. But if my client agrees with a party for a legal purpose, aided by legal means, he is not accountable for the intemperate conduct of others who are not on the trial, nor is that conduct evidence of guilt. Would the meeting at Trim have been less illegal if a thousand persons more or less had stayed away and contented themselves with reading the speeches at home? Could it be said that the Hillsborough meeting of seventy-five thousand persons, headed by Lord Downshire in person, was illegal? To agitate for a repeal of the union is perfectly legal, and therefore, the numbers who attended meetings for the purpose of effecting that object were only important in so far as they gave alarm to peaceable persons living in the vicinity of the several places of meeting. The meetings mentioned in the indictment had excited no alarm; and he would ask, was the Solicitor General prepared to affirm the monstrous doctrine which had been laid down by his learned colleague, that the more perfect the tranquillity which prevailed at a meeting, the more dangerous was its character; the more they form the determination not to break the law, the more palpable the indications of crime and conspiracy? He (the learned counsel) would say, that meetings of such a nature were always disliked by Kings and their ministers; for men born to command disliked the voice of the people when raised in murmur and complaint. Such sounds disturbed the tranquillity of a court, and ministers of the crown, except when they could make popular ferment a stepping stone to power, disliked meetings called to complain of grievances. Such meetings were always unheeded, except when imposing in character and appearance. Suppose the twelve gentlemen he had then the honour to address met to discuss a fiscal grievance—suppose they passed strong resolutions, their resolutions and their meeting would pass unheeded—they would wither under the silent contempt of the press, and the minister's slumbers would remain undisturbed. But suppose twelve hundred or twelve thousand such men met and passed similar resolutions, the minister would begin to look about him, would see that the public mind was stirred, and would consent to discuss remonstrances which he had hitherto treated with contempt. A meeting of twelve thousand such men would produce important results; and yet no man, no legal officer of the crown, would dare to treat them as conspirators. They would not be considered conspirators even if one of their number spoke rashly, or if the incendiary or the spy should have been among them uttering treason and sedition. Now, the humbler classes of society had the same right to meet and discuss their grievances as persons in the rank of the gentlemen of the jury; but the opinions of the men of the multitude were not equivalent in individual importance, and therefore they were obliged to make up the deficiency of moral force by superior

numbers. But then, if meetings of those classes, however numerous, were more orderly than the House of Commons---although, as that august body was now sitting, he must not allude to it---(a laugh)---if the English reporters were astonished at the politeness of Irish manners---at the moderation of the savages who occupied this portion of the United Kingdom, then their meetings were as legal as any that might be formed of their more elevated fellow-subjects. He would now call the attention of the jury to some meetings which had been held in England---held under the nose of the Attorney General and at the door of the Prime Minister. The first meeting to which he should allude was that which had been mentioned by Mr. Ross, the Crown witness. It was attended by two hundred thousand of the lower classes, for it would be an insult to call them rabble, and was met for the purpose of discussing the severe sentence which had been passed on the Dorchester labourers. Mr. Ross stated, that he never had seen such a meeting---a small party of 200,000 men marching in procession to the prime minister's office, with a petition which it took twenty men to lift, on the subject of a sentence which had been pronounced by one of the judges of the land! How was that meeting headed? By a clergyman of the Established Church, dressed in his sacred robes. He (the learned counsel) mentioned this fact, because one of the charges against Mr. O'Connell was, that he attended a meeting in his red robe of office. Now, he (the learned counsel) thought that that fact should be taken as an indication of Mr. O'Connell's wish to preserve peace and order. No man, in office would, if bent on disturbance, go to a meeting decked in the insignia of authority; he was sure that if their lordships---with respect be it spoken---should ever feel inclined to encourage riot, they would never do so decked in the judicial ermine---(laughter)---But the meeting to which he had alluded marched through the streets of London, and he would read to the jury some account of its proceedings. The meeting assembled at six o'clock in the morning of the 27th April, 1843, in Copenhagen fields. At eight o'clock the principal lodges, headed by their respective officers, with crimson collars, marched five or six abreast in regular, almost military order. The view of such large columns was most imposing, and the numbers could not be less than 166,000. The different lodges were distinguished by appropriate banners; and at their head marched Mr. Owen, in a blue cloak and crimson collar, and Dr. Wade in his clerical robes. As the procession passed through the streets more than one fat lady looked out, and waived their hands in approbation. The conductors on horseback had some difficulty in preserving order. The police, gentlemen of the jury, and please to mark this, the police gave great satisfaction by their non-interference, having had orders not to show themselves except they saw symptoms of a breach of the peace. The meeting marched in procession to Downing-street; but Lord Melbourne declined to receive a petition so presented, at the same time promising to lay the petition before the King, if presented in a proper manner. He would also allude to an account of the same meeting, which he found in the *Morning Post* of the day. The *Post* commended the police for not interfering, and expressed their surprise that the *Times* should censure the meeting, after its bludgeon and brickbat appeals during the progress of the Reform Bill. The learned counsel then read a descrip-

tion of the great meeting of the Birmingham Union, on the 8th of October, 1831, the particulars of which are so generally known, and quoted Mr. Attwood's speech, in which he said, "he would give each man a string, and twist the millions of strings into one cable, which would draw the great Leviathan where they pleased." Ministers did not dare to say that such meetings were illegal, nor did the Attorney General of the day attempt to prosecute the persons present, although the speeches were even warmer than those mentioned in the indictment. Such meetings could not be called mere demonstrations of physical force, backed as they were by the wealth and intelligence of the manufacturing districts of England. Of them Lord John Russell, a minister, said that "the whisper of faction should not prevail against the voice of a nation." He would now call the attention of the jury to meetings which had taken place in the country, from a portion of which the Attorney General enjoyed a seat in parliament, he meant Yorkshire. He would ask his learned friend had he ever seen placards put forward by King Richard, as Oastler was called, concerning the "white slaves" of the factories, and the poor laws? The learned gentleman then read an extract from the *York Herald*, describing the mode in which thousands of manufacturing artisans went to a meeting called by Mr. Oastler, against the factory system. They were described as going from Bradford and other places at night, and in divisions, headed by bands, with body-guards, &c., to the place of meeting, which was crowded by thousands of persons. At the meeting, the language of Mr. Oastler was of the most violent description. He did not mince the matter. He said, the congregated thousands had met that day to give a vote against the continuance of "infantine slavery." They knew that Lord Ashley had succeeded in obtaining what was called a Ten Hours' Bill in reference to the employment of children in factories. But this was not the law of the land when these meetings took place; the consequence was that the millions met in masses—they combined—they went to the meeting headed by bands, and with flags flying, they used language a thousand times worse than any thing that had been proved in this case; for they reviled the aristocracy, and denounced the manufacturers, whom they declared to be making their fortunes from the blood and sinews of the poor artisans. But did any Attorney General interfere to prevent these meetings, to which thousands of the people went, fifty, sixty, and eighty miles to be present at? and which they assembled at to force the Government to do justice to them—to compel the Legislature to listen to their grievances, and redress their wrongs, and to do that for the artisans of England which he hoped would be yet done for the poor unfortunate labourers of Ireland? The learned Gentleman then referred to one of the *Oastler papers*, from which he read extracts of an exciting description against the manufacturers of England, in relation to their treatment of factory children. The result of these meetings and these addresses was, that the act passed to which he had already referred, and by which the labour of children in factories was limited to ten hours. He would now draw their attention to the way in which the *Evening Mail* spoke of the great meeting at Hillsborough, at which 70,000 men attended. The people who appeared at that meeting were called "the brave men of the north." He liked them to be called so, for they were a brave body of men. They travelled many miles to attend the meeting at Hillsborough, and they

assembled at that meeting in such numbers for the purpose of declaring that by physical force "the union should be maintained, and that they would resist its repeal with their lives and fortunes." And did they think that if these 75,000 men met again for the self-same purpose, and exhibited the same bold and determined front, that the Attorney and Solicitor General would not be very much obliged to them (a laugh.) Did they think that if these men met again, and expressed their determination, not only to uphold the union, but to support the government in the prosecution of those who sought to repeal that measure, that the Attorney General would not be most gratified? Did they think that they would not hear from the Attorney General the expression of his thanks to these brave men of the north for the honour they had conferred on himself individually, and upon the government whose unworthy servant he was—(laughter)—for having, by the demonstration of physical force, expressed their determination to uphold the church and state, and maintain the sacred institutions of the country (laughter.) There was not one of these 75,000 men that could not handle a gun ably and well, and the Attorney General, at the bottom of his heart, was glad of it; and could they doubt that if these 75,000 well-armed and well-disciplined men had met and declared that the union between this country and England was a grievance and must be repealed—did they doubt, he would ask, that an act repealing the union might not, in a very short space of time, be the law of the land? But they did meet in "border fashion," and they declared they were ready to uphold the Union; and with the view of giving courage to the Queen's Ministers to oppose the repeal of that measure, they stated their determination of being ready to sustain them with their lives and fortunes. If that had been a meeting composed of 500 persons, of what value would such a declaration have been? If it were a meeting of 5,000, or of even 15,000, its value would be doubtful as regarded this expression of feeling in favour of the government; but it was of the first consequence when it came from a well organised body, such as the 75,000 men who met at Hillsborough. No doubt the learned Solicitor General would endeavour to draw a difference between the meeting at Hillsborough and those which took place at Tara and Mullaghmast; but he was sure that twelve high-minded and honourable men would not allow paltry, personal, or political considerations to influence them when they were called upon to give their opinion as to the character of these respective meetings. They would never, he was satisfied, act upon that left-handed policy that would say to men of the north—"You may meet in large masses to discuss your grievances with a view of getting rid of an objectionable law, but that you, men of the south, must have a very different measure of law dealt out." No, he was sure that twelve men, with sound, manly understanding, would say to one party as well as the other, "As you broke no law you have a right to meet and discuss your grievances---that we have no right to canvass too minutely your resolutions, provided we see that your object was not to break down the constitution of the country, and spread desolation throughout the land." He would now direct their attention to the evidence which had been given in respect to the several repeal meetings. The witnesses examined were chiefly policemen, and one or two magistrates

and yet every one of them admitted that peace and order prevailed at all the meetings; and this, if it had been necessary, could have been fully established with hundreds of witnesses for the defence. And here, he might observe, that there was not one witness who was able to say that these meetings produced the slightest fear or annoyance to either the resident gentry, the merchants, or the traders who resided in the localities where they took place. In fact, all, from east to west, was order and perfect tranquility. But the learned Attorney General contended that the more quiet the meetings the more criminal---(a laugh)---so that if the question which they had to try was the insanity of an individual, the best evidence, according to the dictum of the learned Attorney General, that could be given in support of it, would be to show that the party had always acted in a perfectly sensible and correct manner, and that in truth his intellect was wholly and entirely unclouded (a laugh.) If these men who assembled at the meetings in question had been drunk, and if they had broken each other's heads, why that would have been all right. It would have been the good old fashion and system by which heretofore Irishmen settled their differences; but the moment they lay aside their natural characteristics, and soberly and steadily meet in large numbers, to obtain a great object, then down comes the Attorney General, and immediately calls for Coke and Hale, to see if he cannot, out of this peaceable and orderly proceeding, make out something that will ensure a conviction for conspiracy, and this he is to do by means of the gentleman with the scissors, (a laugh), and then, by a stringing this [speech and that together, so involve both speakers and journalists in one common crime as will completely overwhelm them, and prevent them from appearing at a meeting for the future. It would be absurd to present petitions of the meetings held in August to the House of Commons, when perhaps there might not be thirty persons present---they were, therefore, necessarily reserved until such an impression might be made by an accumulated mass, as well as by the number and variety of the signatures, as could not fail to make an impression on the understanding and feeling of Parliament. He would call their attention to several topics---and first to the music. Surely, the Attorney General was not so unharmonious as to object to the Irish people indulging in a little music---and to substitute it for that prison which rendered feverish their bodies, and which tended to destroy their understandings. He confessed that, although they resorted to music, and which was most commendable, yet there was very little of the harmony (laughter)---in what he had heard; and as to the order, he defied any man living by such music to keep the ranks, except by the aid of a policeman (laughter.) What was the music?---a parcel of untaught boys thumping a big drum, and a similar squad playing something devoid of harmony or tune. Things went on quite differently in the north of Ireland. There the tunes were well executed---whether "Patrick's Day in the Morning," the "Boyne Water," or "Croppies, lie down." There, there was always music of the exciting tunes, which left many a broken head and sore arm (laughter.) But the unfortunate people in the south have not yet arrived to this perfection in the science of music---they cannot play anything better than "God save the Queen," and there is nothing a policeman dislikes so much to hear (laughter.) It was said the temperance bands

appeared in grand dresses; but was not that preferable to going into the public house, to deprive themselves of reason, and to unfit themselves for every duty? But was that a case which was to be perverted by an acute individual to prove a conspiracy? Why, the only conspiracy which was in it was a conspiracy to murder harmony (laughter.) They also, it appeared, had conspired to march together; but in that they also failed. Well, they had banners also, and some of the mottoes were such as perhaps, the Attorney General would have selected—as “The Church and State,” “The Constitution of the Country, as settled in 1688,” and all those other good constitutional maxims which his learned friend had engrafted in his heart, and to which he was so sincerely attached. But if those persons had to say, “Not the Church and State”—but to say, “Liberty”—“O’Connell”—“The Repeal of the Union”—“We will not be slaves”—“We will die to preserve our rights”—(laughter)—“Yes, though we were to suffer six months’ imprisonment for our liberty”—(laughter)—“The Union was carried by fraud”—“We will give our confidence to the Liberator of Ireland”—“We will trust to our leader; he tells us to be peaceful, to be quiet, to commit no crime; that if we do we shall lose our moral influence.” And the people agree to all this, and because they do, it proves a conspiracy—it proves high treason. Yes, these dogged fellows persevere in their peaceful intentions rather than go to gaol, to the great annoyance, no doubt, of all crown lawyers (laughter.) Why, he read the speech of the Duke of Sussex, at a dinner in England, which took place in January, 1820, at which the King’s health was drunk in silence. That would not be the way the Queen’s health would be received. No, no; at her name every Irishman would fling their caps into the air, with three cheers (laughter.) There was at that dinner a particular motto, “That they would rather have death than lose their liberty,” and the Duke himself declared in his speech, “that he would rather have death than lose his liberty, and that those who did not think liberty worth fighting for were unworthy to enjoy it.” And so it was with many of the Irish mottoes; they did not proclaim “Down with the Monarchy,” “Down with the Bench,” “Down with the Peerage,” no, nor “Down with the Attorney General,” (laughter)—no, not “Down with the oligarchy,” “Down with the privileged orders,” “Down with the borough system,” as were exhibited elsewhere. But they were told of an arch that was erected at the meeting of Tullamore—an arch that was not erected with the knowledge of O’Connell or Steele, or any other gentleman connected with the meeting. It appeared from the evidence of M’Namara, the reporter who was at the meeting, that the people went there precisely as they would go to a fair or a market. An arch, however, was erected; on which was inscribed a very unjustifiable and intemperate inscription, “The Repeal of the Union, or the world in a blaze.” But suppose any one of the jury was going to a public meeting, and that without his knowledge or consent, some rash, misguided, or excited person, erected an arch before they even proceeded to the meeting, were they or any one of them to be held accountable for the criminal conduct of such a wretch? But what was the fact? That, when Mr. O’Connell saw it, he sent immediately to have it removed—that otherwise he would not attend the meeting. Mr. Steele went accordingly, and had

it pulled down. This conduct, so far from proving a wicked purpose, rather proved the purity of the motives of Mr. O'Connell, and that his desire was to act within the boundaries of the constitution ; for the very moment he saw the inflammatory placard, a messenger was sent to remove it, and it had to be down before he would commence the business of the day. He would only mention that fact. The policeman would not, or could not, say the precise time it was removed ; but the fact would be proved to demonstration—a fact which must tell in favour of Mr. O'Connell. Now, as to the Mullaghmast meeting ; and here he would ask, was it a lawful or unlawful meeting ? What was the test to try the legality or illegality of the meeting ? They would say, no doubt, that it was to be tested by the acts of the speakers—by the speeches made—by the general conduct of those assembled—whether they had separated quietly, and whether they returned to their homes peaceably. It was the duty of the jury to look at those features, and look at them with the eye of charity—to look at them as freemen, anxious for the rights and privileges of freemen. They were not to view things with the critical eye of a lawyer—they were not to find men guilty who assembled for a peaceable purpose—nor were they to be looking for something different from what really appeared. Would the great meeting at Hillsborough, at which the Marquis of Downshire and other noblemen and influential persons attended, be deemed illegal because some obscure criminal, a spy, an incendiary, went there—some ballad-seller from Belfast, to sell and circulate treason or slander ? Surely it would not. Such was the case of the Mullaghmast meeting. Did Mr. O'Connell or any of the traversers, cause to be published, printed, or circulated, the document which was produced in court, and received in evidence ? They did not. They had produced on the table here the printer who had published everything for the association, and he brought with him the only large placard which was published for the Mullaghmast meeting, and which they directed to be printed, and for which he was paid. Were, then, the traversers to be tried, sentenced and condemned, upon the act of a man whom even the police did not know—who circulated a document giving a description of something which occurred, no one knew when or where—a document received in evidence to prove the common plot set forth in the indictment as evidence of a common union to promote a common object, to promote and effect a preconcerted plan ? And yet there was not one particle of evidence produced to prove that that paper was printed by the association, or by their direction. Why did not the Attorney General produce the man who printed that scandalous and wicked document ? Why bring forward a document not proved by its printer ? Why keep back his name ? And were the jury to fasten the guilt of such a man upon the traversers ; to fasten upon them a lying, slanderous document, which they never saw ? He complained, then, of keeping back such a witness, and which the Attorney General should have produced. It was not their business to criminate themselves, nor should it be done by any party but by clear and unequivocal proof ; and although that piece of evidence was received by the court, it should not be received by the jury, unless it was proved that it was part of a common, a preconcerted plan ; for he would lay it down as law, that if that document was even the act of one of the



eight traversers, it should not be received as evidence against the others, unless they believed it was, by the assent and consent of all, a part of a preconcerted plan.

The court adjourned for refreshment for a few minutes.

At five minutes past two the court sat again, and

Mr. Whiteside resumed his address. Mr. Fitzgibbon had given a full statement of what might be considered the best passages of Mr. O'Connell's speeches, and he (Mr. Whiteside) would now take a view of what might be considered the worst. Many of these speeches had not been given in evidence, but the nature of the indictment was such that the prosecution were enabled to put in a vast number of papers containing reports of speeches, and the jury had to distinguish between those that were proved and those that were not. It was also well known that many speeches were reported which never had been delivered—particularly in the way of poetic extracts, which the speaker never uttered, but which sometimes found their way into the written speech. In one of those reported addresses Mr. O'Connell was represented as alluding to the battle of the Boyne and defeat of the Irish people there. It was singular enough that Sir Walter Scott in alluding on one occasion, to the battles of his countrymen in "flood and field," admonished the Scots, not to fall into the mistake of their ancestors, but to be steady, firm, and united, in their moral agitation, and not to be divided and wavering as their ancestors were in their physical conflicts. This was precisely the meaning of Mr. O'Connell's allusion to the battle of the Boyne. He encouraged the people to firmness in the political struggle in which they were engaged, by a reference to historical facts. His language plainly meant nothing more nor less than this—"By their want of perseverance your ancestors lost the memorable battle of the Boyne; in the constitutional struggle in which you are engaged, be sure that you preserve perseverance and unity, and you will certainly succeed." But the illustrations of a popular speaker were not to be visited on the head of his (Mr. Whiteside's) client. Mr. Duffy was not in Ireland when many of those speeches were delivered; and was he to be charged with the consequences that should attend them? At Clifden and Mullaghmast Mr. O'Connell's speeches contained historical illustrations, scraps of native poetry, and everything his experienced fancy could dictate, but did his (Mr. Whiteside's) client confederate with Mr. O'Connell to deliver those particular speeches? Mr. Duffy agreed with Mr. O'Connell in this, that the Union ought to be repealed, but did not agree that he should make those allusions to the battle of the Boyne or the battle of Aughrim. Why, at the end of ten months, was Mr. Duffy selected as the special object of a prosecution for printing those speeches in his paper, while the *Evening Mail* and *Packet* were passed over, who also printed them with comments of their own? Then comes—"Better die as freemen than live as slaves"—a sentence which merely shows the speaker's independence of thought and boldness of spirit. There was another expression which was much dwelt on by the Attorney General—"The people would be stultifying themselves to expect redress from an English Parliament." An attempt was made by the learned counsel (afterwards Lord Redesdale) who conducted the case against Horne Tooke to extract from a similar expression an intention to have

recourse to physical force, but on that occasion the jury declined to adopt the view of the learned Law Officer. The subject Mr. O'Connell was discussing was the repeal of the union, and if he admitted the perfect justice dealt out to this country by the Imperial Parliament, he would be inconsistent in demanding a domestic legislature. He (Mr. O'Connell) was of opinion that the ready justice which would be dispensed by a domestic parliament might be well contrasted with the cold neglect with which the application and remonstrances of the Irish people were received by the Imperial Parliament. He was not arguing against the powers of the House of Commons, nor that it should be lopped off as a useless branch of the Legislature, but that the particular House of Commons in existence was not so pure as it ought to be. At the Longford meeting, held on the 28th of May, Mr. O'Connell spoke very freely of Lord Beaumont, but none of the traversers had confederated with Mr. O'Connell to abuse his Lordship. That distinguished nobleman had said of Mr. O'Connell, "I despise his vituperation, and I despise himself as much as the reptile that crawls in the dust." Gentlemen of the Jury, that was too ignominious an epithet to be applied to one who, whatever might be his faults and indiscretions, had been the means of bringing Lord Beaumont into the very place where he had the opportunity of using that language: Mr. O'Connell, who was a perfect master of invective, retorted, poured out a torrent of abuse on his lordship, and said a vast deal of things that might have been much better he had not spoken; but would any one say that Mr. Duffy agreed and conspired that Lord Beaumont should abuse Mr. O'Connell, and that Mr. O'Connell should retort on Lord Beaumont? If Mr. O'Connell should then start up and abuse the Chief Justice, and in the progress of his speech said we ought to have a native Parliament, would that be a proof that Mr. Duffy conspired with him to have the union repealed? Mr. O'Connell felt justly incensed against Lord Beaumont for the contumelious language applied to him; for, whatever might be his faults, he had certainly a place in the history of his country, he had also a European name. There was a want of taste, a coarseness of manner, and a weakness of judgment exhibited by his lordship in this attack, which showed that a vulgar peasant might be more polite than an English member of the British Parliament. Mr. O'Connell had also said, "I will take care you will do no wrong; but if they attack us we will do so and so. This was explained by another observation---" They must discuss the question with us, they must listen to us, they must hear us, they are not to bully us." There was no reference at all to the employment of physical force on the part of Mr. O'Connell or his friends. Much of what a man said depended on his temper, the heat of his manner, and his physical condition, at the moment the speeches were made. Many of those speeches were made after dinner, and there was no doubt that if the Attorney General himself stood up well-primed after dinner to make a speech in defence of Church and State, he would be much more bold, animated, and excited, and would give utterance to a great deal of what is called inflammatory matter throughout the progress of his speech (laughter.) The speeches given in the indictment were, for the most part, made after dinner, and the worst passages of them were extracted for the purpose of showing what a wicked

man Mr. O'Connell was. As to the word foreigner, Mr. O'Connell took that word from the law books. A case was reported in 3 Barnwell and Adolphus, where a bill of exchange was drawn on a person in Ireland, and as there was only a verbal acceptance, it was contended that that was sufficient, Ireland being a foreign country (laughter.) It was pressed on the other side, that that could not be; but it was ruled by the court that Ireland was a foreign country, and that a verbal acceptance of the bill bound the acceptor (laughter.) It was observed by one of the counsel who argued the case, that they did not even know where Dublin was (laughter.) When Mr. O'Connell said England was a foreign country, he was speaking a legal truth. He was certainly speaking of a place beyond the seas; but he (Mr. Whiteside) would require the Solicitor General to prove that, because Mr. O'Connell said this, his (Mr. Whiteside's) client conspired to do all the wicked things, with which Mr. O'Connell was charged. All that he said about the Duke of Wellington and Sir Robert Peel, proved nothing, and was drawn forth because he (Mr. O'Connell) thought those distinguished persons were going to put him down by physical force. His expression, "Here is more physical force than was at Waterloo," was a mere boastful expression of pride, showing that the confidence of the masses of the people was enjoyed by him, and that their opinions were as much entitled to be discussed as those of the 75,000 who went "shoulder to shoulder" to the Hillsborough meeting. The Attorney General alluded to Sir Robert Peel's declaration in Parliament, of her Majesty's intention to maintain the Union inviolate. That declaration possessed no legal authority. We only knew what passed in Parliament by a breach of privilege, and to force us to read the speeches of the members would be an act of intolerable despotism. If a gentleman stood up and put a question to Sir Robert Peel and he replied---was that to effect the law, rights, and liberties of the people? The converse of that doctrine was laid down by Lord Mansfield, who said, "he never felt bound, in his judicial capacity, to honour even the resolutions of either House of Parliament with the slightest regard." To show how a question can be asked and evaded, it is only necessary to read to you the passage to which the Attorney General alluded in his opening of this case. Viscount Jocelyn asked his Right Hon. Friend Sir R. Peel, whether the Government were determined to take any measures to put down the agitation that existed in Ireland with reference to the act of Union?---Sir Robert Peel said he thanked his Noble Friend for giving him an opportunity of saying a word on that subject, and told him that there was no power which was granted him by the law and the constitution which he would not put in requisition for maintaining the union. He further stated that he was authorised by the Queen to state her determination to maintain inviolable the connexion between the two countries.

Sergeant Warren---When did this debate take place?

Mr. Whiteside, Q. C.--On the 24th of May, Sir Robert Peel also said that, if he required any additional powers, he would apply to the parliament. Now, at the very time upwards of 20 of these meetings had taken place in Ireland, and there is not even a suggestion made that they were illegal; he does not even hint, much less say, these are illegal meetings, and we will repress them; they are unconstitutional and we will put them down.

Lord Cottenham says, in reference to what Sir Robert Peel said with regard to the sentiments of her Majesty, that that declaration was illegal, and was as unfortunate as it was unconstitutional. Sir Robert Peel, as I before stated, said that if what had been done was illegal, he would apply to parliament for power to put it down, never even hinting that the meetings which were held were so; and yet that ministers now directs the Attorney General to ask an Irish jury for a verdict condemning these meetings, while he did not dare to do so in his place in the House of Commons; to ask an Irish jury for powers for their repression. Gentlemen of the jury, in looking at the Mullaghmast meeting you cannot consider Mr. O'Connell's speech as violent or as improper; for when alluding to the historical fact of the massacre at Mullaghmast he does not stir up a sectarian spirit, he told the people that it was not a massacre committed by a Protestant on a Catholic, but one perpetrated by Catholics on Catholics. The Attorney General called your attention to the character of the processions by which the meetings were got together---he told you the people were drilled, and he quoted a case to show that such drilling was illegal; but he did not tell you that the drilling in that case was performed at night, and by a soldier. You, gentlemen, saw the meeting at Donnybrook; it was composed of respectable artisans---we, coming to Court, saw them---would you believe any man, if he could be found, to tell you that he was put in terror?---that he apprehended a breach of the peace, or any danger to either life or property? No, surely---"*Ex uno disco omnes.*" From that one meeting, learn the character of the whole. But the Orangemen have met hundreds of times with music, with banners, and, mind, gentlemen, with arms which they well knew how to use, for they were often tried for using them (laughter)---and then only for the riot, not because it was asserted they had no right to meet, or that such meetings were illegal, for such was never asserted; and when they did wish to put them down, they had to get an Act of Parliament to empower them to do so. Well, Lord Stanley put them down with a strong and a tight hand, and the only objection which was made by one of the present Judges on our bench was, that he did not think the law went far enough, and put down all meetings of the description which were then under debate. Mr. Lefroy, who now so ably administers justice in an other Court, resisted with great ability the passing of that Bill. There were also two other persons who resisted it, both of whom are at present traversers at the bar. One of them was Mr. O'Connell and the other was his son. They resisted it on constitutional grounds, and eloquently, ably, and constitutionally they argued the case, even though it took power from their enemies to injure them. He told them that the spirit of the Orangeman could not be put down; it might be properly directed, but it could not thus be repressed. The association was not obnoxious to the charges in the indictment. Its object was not to diminish the prerogative of the crown, but to extend it---not to subvert the throne or the House of Peers, but to add to the strength of one and to restore the other, and to bring back to Ireland the House of Commons, whose absence they deplored. If the Jury were to judge fairly, they should place themselves in the situation of the traversers, and then, he would confidently ask them, would they adopt different means to effect their

object? The fact was, that the people had found out the secret of their strength, and that what was denied to justice was conceded to moral force. The history of Ireland for the last century almost was but a series of associations like the present. In 1760 the first Catholic association was formed, and they got the penal law relaxed in 1776. Subsequently another body of men combined to rescue Ireland from ruin and contempt. The Volunteers found their country with her commerce interdicted, her trade put down, her manufactures destroyed, the largest portion of her people without political freedom; and with arms in their hands they determined to obtain justice. What the talents of Swift, of Molyneux, of Lucas, could not obtain, was yielded to men with arms in their hands. They would be now the mere serfs of England but for the spirit of the Volunteers, and yet they were now called on to stigmatise a peaceful struggle for the repeal of a law as a foul conspiracy. In 1823 the Catholic Association, one precisely similar to the present, was formed. Meetings were held, rent was collected, and they were put down in 1825, but not by a prosecution for conspiracy. In 1829 they triumphed over the interests of the Church, the conscience of the Crown, and the inclination of the British Parliament, because the people had found out the secret of organisation. The fact of it was, that England always treated Ireland as an angry parent did the child, punishing her often without a cause, and then soothing her with a sugar plumb (a laugh.) The learned counsel then took a rapid review of the legislative proceedings which had at different times taken place with reference to bodies similar to the Repeal Association, quoting Lord Brougham's observation as to the absurdity of considering national tranquillity as a cause for terror. He contended that if government wished to put down the Repeal Association, they should do so by legislation, and not by calling on the jury to do so in violation of the common law. He then proceeded to another branch of the case, with which were connected the cards and documents of the Repeal Association. On the first card he found a representation of a Catholic, and a Protestant, with the motto, "Quis Separabit." There was certainly nothing very revolutionary in that. He thought it showed the peaceful object of the association. The next card was the members' card, for which a pound was paid. This card contained a "sunburst," which was due to the genius of Mr. Thacker, and some statistical details as to the trade and commerce of the country. The next card, the Volunteers' card, contained something which, according to the Attorney General, was dangerous indeed. It was adorned with a portrait of Ollam Fodhla; and here he hoped the Lord Chief Justice, who was no doubt acquainted with the writings of that great legal luminary, would explain what was in them that could be called seditious (great laughter). He, for his part, did not see how the use of Ollam Fodhla's name could be construed into evidence of conspiracy. The Chief Justice, and the other judges of the court were parties to this conspiracy, for the figure of this far-famed Ollam Fodhla was actually in the niche in the hall of the courts, looking down upon the students below (renewed laughter). Yes; there he was placed outside the court of Queen's Bench, as a model, he presumed of the purity, impartiality, and learning which existed within it (a laugh.) He, therefore, did not know why it was that these

traversers were to be called conspirators, because they had selected this self-same Ollam Fodhla, and placed him on the top of the Volunteer card (a laugh.) But there was another name on the card, in reference to which he must apply to Mr. Justice Burton for information (a laugh.) The name was Dathy (a laugh.) Now, as he was aware that the learned Judge was well acquainted with the antiquities of Ireland (a laugh.) He knew of no one who could better address himself on this matter than his lordship (a laugh.) But in the absence of any information from that quarter, he might be allowed to say that Moore had stated that this Dathy died at the foot of the Alps, having been killed by a flash of lightning. He must, however, with all due respect to Moore and other Irish historians, express his doubt that such persons as Ollam Fodhla or Dathy ever belonged to Ireland. But these traversers, not content with placing such persons on their card, went farther, and were actually bold enough to have the names of Grattan and Flood there too. And who were these men? Persons desirous of abolishing the monarchy, and destroying the constitution? No; but men who taught the people how the independence of a nation might be established by constitutional means, and to one of whom was voted by a Protestant Parliament 100,000*l.* for his exertions in favour of his country. And were the traversers, because they selected such men to ornament their cards, to be branded as conspirators? He apprehended that the answer to this part of the charge was in the heart of an honest jury. The learned gentleman then drew the attention of the jury to another document which had been engraved by Holbrooke, which was surmounted by the head of the Queen, with the words "God save the Queen" underneath. It was illustrated by views of the Giant's Causeway, Glendalough, Darrynane, &c.; but what application existed between these places and a conspiracy he really could not understand. Then there were the words "Erin Go Bragh," and the figure of a harp, and he hoped the day was far distant when the music of the Irish harp would not be attractive to the ears of the people of Ireland. But then the Attorney General said that this card was explained by a letter from Mr. Callaghan, but there was nothing in all that had been written by that gentleman that was not perfectly consistent with everything that was loyal and constitutional. He therefore submitted to their better judgment that there was nothing in this letter to sustain the charge of conspiracy brought against the traversers by the Attorney General. But then, reference was made to the rules given to the Repeal Wardens. Why, those rules were only those of the old Catholic Association. The learned Gentleman, after referring to the rules of the National Association, which was founded in 1840, and pointed out their similarity to those of the present association---adverted to the objects of the association as laid down in a statement submitted to the association in June last.

[The paper which is as follows was, however, again read in the court by Mr. Henn, who kindly proffered his assistance to his learned Colleague.]

"TO THE PEOPLE OF IRELAND.

"We have arrived at a conjuncture of the deepest and most vital

importance---a conjuncture which, if we wisely and prudently avail ourselves of it, must tend to measures of the utmost utility to the political rights, as well as to the commercial, manufacturing, and agricultural prosperity of Ireland; and, before all, to the restoration of our self-government, the only means of obtaining the blessings we have now enumerated.

"It is of the first importance, and beyond all other, that we should distinctly understand each other---that there should not be deceit upon the one side, or delusion upon the other. It is the duty of the repealers now, with the utmost sincerity and with the most perfect candour, to describe all the objects they have in view by the repeal movement; and, as far as possible, to point out the mode in which those objects can be best obtained.

"Our objects, then, are these---the restoration of a separate and local parliament for Ireland---the restoration of the judicial independance of Ireland.

"The first would necessarily include the making of all laws that should be of force within the entire precincts of Ireland---by the Sovereign, the Lords, and the Commons of Ireland, and to the total exclusion of any other legislature from any interposition in affairs strictly and purely Irish.

"The second would necessarily include the final decision of all questions in litigation by Irish tribunals seated in Ireland, to the total exclusion of any species of appeal to British tribunals.

"It must be avowed that the simple restoration of our former parliament would not suit the spirit of popular reform which has mixed itself up with British institutions since the passing of the union statute. There must, therefore, be a new distribution of the number of members, and an alteration in the districts returning members to the Irish House of Commons.

"Upon this subject the Repeal Association has already published a project for the remodelling of the Irish House of Commons. Let it, however, be most distinctly understood, that it was not, and is not, intended by any portion of the Repealers to dictate that plan as final or conclusive. It is quite open to alteration, amendment, modification, or even total rejection, in order to substitute a better and more eligible plan if such can be pointed out. We would gladly invite all that is wise, steady, and unrevolutionary, to discuss the principle and the detail of our plan. What we aim at is, to obtain an Irish House of Commons, representing the intelligence, the integrity, the steady and deliberate wisdom, and the pure patriotism of the Irish people.

"For this purpose we deem it necessary that the basis of the elective franchise should be as extensive as possible. We suggest for consideration the plan of household suffrage; and we invite the opinions of those who deem household suffrage too limited, as well as those who deem it too extensive.

"The Repealers are strongly attached to the mode of voting by ballot, for this, amongst many other reasons---that such mode of election can easily preclude every species of tumult and riot. It can easily ensure tranquillity amongst the masses, and independence of voting to each individual.

"The restoration of the Irish House of Lords presents no serious difficulties. Any modification of the peerage in consequence of creations since the Union may be safely left to the decisions of the House of Peers itself.

"We do not see any difficulty in the way of the restoration of the judicial independence of Ireland.

"This is not the place to dwell upon the incalculable advantages that would result from the restoration of the Irish parliament. The spring of prosperity which, as a necessary consequence, followed the independence of 1782, must produce the same—nay, more useful and more important results at the present period, when there would be more room for improvement, and a greater and more expansive power of generating prosperity in the Irish legislature than it formerly possessed.

"Two objections of a serious and important nature have been made to the restoration of the Irish parliament—objections which deserve to be candidly stated, and, if possible, fully replied to."

"The first of these objections, and apparently the most important, arises from the apprehension that the consequence of the Repeal of the Union would be the establishment of a Catholic ascendancy, to be substituted for the by-gone Protestant ascendancy.

"We are thoroughly convinced that there is not the smallest possible danger of any Catholic ascendancy. Not the least. But, before we submit the reasons that ought to convince every intelligent Protestant of the total absence of any danger of a new ascendancy, we desire to be fully and distinctly understood upon *one* point—it is this:

"There exists in the hands of the church of the minority of the Irish people, the possession of the entire ecclesiastical state revenues of the entire Irish nation. We candidly and explicitly avow that this state of things could not continue to exist after the Repeal of the Union. Nay, we go further, and declare it to be our decided and long formed opinion, that one of the great advantages to be derived from the Repeal of the Union would be the severance from the state of every church in Ireland—Catholic, Episcopal Protestant, and Presbyterian.

"We are openly of opinion, and it is an opinion from which we cannot depart, that there must be a new appropriation of the ecclesiastical state revenues; that such appropriation should consist in having entire respect for every vested interest; **SO THAT NO PERSON NOW IN POSSESSION OF ANY ECCLESIASTICAL BENEFICE SHOULD BE AFFECTED IN HIS EMOLUMENTS BY THE INTENDED NEW APPROPRIATION.** In other words, all vested interests should be fully respected. But as each benefice fell in, the ecclesiastical state revenues should gradually, and at length entirely be appropriated to purposes of public charity and general education; but should NOT be appropriated in whole, or in the smallest part, to any other church whatsoever.

"Having thus candidly and distinctly stated the fixed opinion of the Repealers with respect to ecclesiastical state revenues, we come to canvass the apprehension said to be entertained by some, that the repeal would lead to the establishment of a Catholic ascendancy.

"We anxiously desire that those who entertain such an apprehension should candidly and attentively canvass the reasons that appear to us to



demonstrate its extreme futility. Let them reflect upon these things :—

“ First---The ecclesiastical temporalities being disposed of, there remains no earthly purpose for which the Catholics should see an ascendancy. *For what* should they desire an ascendancy, which could not be accomplished by one single shilling of ecclesiastical revenue ?

“ Secondly---Religious ascendancies and persecutions are, thank God, passed away from the tempers and manners of present times. Christians have ceased now to prosecute in every clime and country. In no Catholic country has a single Protestant been persecuted for more than a century. The period of “ religious persecution ” is gone by, never to return.

“ Thirdly---The Catholics of Ireland can make this glorious boast, that they are able to prove, from the evidence of Protestant historians, this ennobling fact—namely, that they have been three times restored to supreme power since the reformation ; aye, restored to power from having been themselves the victims of cruel persecution, and yet they never retaliated by one single instance of persecution. Glory be to God.

“ Fourthly—Let those who make the objection recollect that a large number of the Irish House of Commons, perhaps a majority, will be Protestants ; and that in the Irish House of Lords the majority of Protestants will, at the very outset, be nearly twenty to one. The sovereign must also be a Protestant. How, then, is it possible to dream of any act for the persecution of Protestants passing such a House of Lords, or that it should receive the royal sanction ?

“ Fifthly—Let it be recollected, that even if any attempt were to be made by any faction in Ireland to injure any class of Protestants, the latter would be forthwith backed and protected by the people of England, the overwhelming majority of whom are Protestants.

“ In short, anything so futile and foolish, so absurd and idiotic, as the apprehension of any religious persecution following the Repeal of the Union, never yet lodged itself in the head of a human being.

“ The second objection made against the repeal comes from the landlord class, who are alarmed at the doctrines relative to the fixity of tenure.

“ This is a matter deserving the fullest consideration. It is a subject that should be legislated on with the utmost caution. We are deeply anxious to have the assistance upon this matter of several landowners ; and one of our most pressing motives for desiring the concurrence in our efforts of all classes, is to have the benefit of the intelligence of all, in order to get rid of the difficulties attached to a subject of such portentous magnitude.

“ The great object is, to combine as far as possible the rights of the landlords with the duties which they owe to the occupying tenantry. It is a subject upon which an experiment of vast magnitude was made in Prussia and made successfully.

“ On the one hand, nothing could have a worse effect on the prosperity of the Irish nation than to check the natural inclination men have to possess wealth in its most agreeable form, that of landed property.

“ On the other hand, it is utterly impossible, with reference to the security of persons and property in Ireland, that the relation between landlord and tenant should continue in their present form. The newspapers of the day tell us that no less than about 170 families have been turned ;

adrift by a single nobleman; Lord Lorton; from his estates in three parishes. This state of the law cannot continue.

"It is also very observable that what are called the rights of landlords principally consists in masses of statute law, being statutes passed by the landlord class for their own benefit.

"It is proposed by the repealers to enact a law that should repeal much of the existing statute law in favour of the landlords, but in such a manner as would give the landlord full and perfect remedies for recovering a rent adequate to the real value of the land, after allowing for the tenant's rightful and natural share of the growing produce. It is proposed to render a lease necessary for all dealing between landlord and tenant, and to give the tenant a lien on the land for all valuable and lasting improvements.

"Mr. Sharman Crawford has digested a good deal of this plan in the form of an act of parliament. The details of that bill may, perhaps, be found too complicated. But its principle appears to us to be excellent, and absolutely indispensable to the tranquillisation of Ireland.

"So much of the peace of Ireland; so much of the comfort of her population; so much of the transition of the peasantry from their present state of wretchedness to one of permanent prosperity, upon a good fixity of tenure law, that we strongly hope that many others of the landlord class will concur with us in deliberately framing such a law as will leave all the just rights of the landlord untouched, whilst it secures a solid tenant-right to every industrious and improving occupier of the land.

"These are the two principal objections to the repeal of the union. The Protestant objection, and the landlord objection. The former objection we consider to be so manifestly futile—to be so totally devoid of every species of rational foundation, that we would treat it with mere levity, were it not that we deem it more respectful to those who may entertain so idle a fear to reply to it fully. To the landlord objection we are anxious to give the practical answer of the necessity of full deliberation upon the subject, reminding that class, however, that there is no fixity of tenure so mischievous, and so much to be deplored, as that permanency of holding that results from the dread of assassination or of personal vengeance. The "midnight legislator," as he has been so often called, can be quelled only by the humanity of well-considered noontide legislation. Something must be done for the occupying farmers of Ireland, and even for the security of the landlords themselves: a fixity of tenure, as nicely calculated to do justice to all as is in the nature of things, must be established.

"Having disposed of these two principal objections, we respectfully implore all classes of Irishmen to reflect on the state of their country—on the prevalent distress and destitution. Let them consider the destitution of the manufacturing operatives; let them reflect on the most unproductive position of our commercial relations—our commerce consisting of the export of provisions, into the value of which so small a portion of human labour enters; and of the importation of manufactured goods, whose value consists in a very large proportion of human labour. Thus, for what we *sell*, but few of our population obtain wages; for what we *buy*, a foreign population obtain much wages.

"Let the people of Ireland also recollect how much more extensive was the reform bill of England and that for Scotland than for Ireland. Let them recollect how inadequate is the elective franchise—how miserably small our representation in the House of Commons—how limited our corporate reform—how totally impossible it is to obtain redress for these or any other grievances from the British parliament!

"Let them remember how flippantly every foreign minion can insult the people of Ireland; with what insolence the right of petition may be interfered with, or perhaps taken away; how constitutional principle may, with perfect impunity, be violated in Ireland by every Englishman holding a little brief authority.

"Above all, let not the absentee drain be forgotten. It is now proved to amount to upwards of 9,000,000*l.* per annum. By the union we are drained of more than 9,000,000*l.* annually. The two islands connected with continental Europe, Sardinia, and Sicily, which are subject to an absentee drain, are both occupied by a poorer population than any continental country; whilst Ireland is occupied by a wretched peasantry, whose poverty, contrasted with the productiveness and fertility of the soil, forms the strongest proof of the miserable effects of an absentee drain.

"Another evil of immense magnitude consists in the burthen of the English debt with which Ireland is loaded.

"It should never be forgotten, that whilst the English parliament incurred a debt of 446,000,000*l.*, the Irish parliament kept the debt of Ireland under 20,000,000*l.* Say, in round numbers, that the English debt has doubled since the union; our just proportion ought not, at all events to exceed a similar proportion—namely, from 20 to 40 millions; and the rapidity with which the entire would be paid off—aye, within less than five years, would leave Ireland the least taxed country in the world; instead of being the country which—according to our present means, suffered the most from taxation. Look to Norway which, with a separate domestic parliament, has paid off her national debt, although charged with a burthen that she ought not to have been called upon to bear.

"Contrast Ireland with Belgium. Think what Belgium was when she was loaded with the enormous debt and taxation of Holland—when she was sacrificed in everything to Dutch interests; her laws administered by Dutch lawyers; Dutch functionaries filling all her offices; insulted by Dutch insolence; and threatened with coercion and military vengeance because she dared constitutionally to complain! What a different picture does she *now* present! Her trade increasing—her commerce extending—her agriculture prosperous—her taxation much lowered—her debt diminishing—the rights of the people respected and maintained—national honour preserved, and national prosperity secured.

"She suffered much from Protestant Holland; her clergy abused and persecuted by Dutch bigotry; her episcopacy reduced to a single individual; her religion insulted, and vexatiously interfered with on every occasion. Yet, mark it well, Protestants of Ireland, although the population of Belgium is about four millions, including only 200,000 Protestants, yet no exclusive law—no restrictive law—no persecuting law was ever

passed by the Belgian legislature, a legislature returned by nearly universal suffrage.

"We do not desire--nay, we repudiate a total separation, such as that of Belgium; but we do look for and seek a local parliament like Norway. We seek the prosperity of Belgium,--in fact, the enjoyment of our own means and productiveness--the administration of our own affairs--and that self-government which once before gave to all our sources of industry an animating and augmenting power, and demonstrated that all Ireland requires is--*that she should belong to the Irish.*

"The time is come when Irishmen can make Ireland their own. Where is the man with an Irish heart who will not join in the glorious struggle for the rights, the liberty, the prosperity of his native land?

"Away, then, with idle fears--with vain jealousies--with causeless apprehensions--with anti-religious animosities. Irishmen, one and all, Catholic, Protestant, Presbyterian, Dissenter, rally for the land of your birth--your fatherland.

"Signed by order,

"DANIEL O'CONNELL,

"Chairman of the Committee."

Mr. Whiteside continued--I shall now, Gentlemen, call your attention to two documents. One is the letter which you will recollect was proved in this case. It is from Mr. Sharman Crawford, and is headed "Repeal and Federalism;" and I contend that the fact of Mr. Sharman Crawford, a man of his fortune and position in the country, almost agreeing in the opinion, that something like a local legislature should be obtained, is an important fact. In that letter he sets forth the grievances under which he says Ireland laboured, which are, in fact, the same Mr. O'Connell has spoken of; and, therefore, the substantial matters of disagreement are, that one would have Federalism, and the other an Independent Parliament. The other document to which I have already alluded is the protest of the Irish members. It was signed by thirty-two members of parliament, and it sets forth the grievances of Ireland--the very grievances which Mr. O'Connell states qualify him in seeking for repeal. That protest was signed by one of the members for Belfast--the representative of a wealthy, influential, and important constituency, and his opinions have not been disavowed or disclaimed by his constituents. It was also signed by Mr. Smith O'Brien, a member of parliament, the son of a baronet, a Protestant, and a gentleman of distinction; and who, in a distinct letter, declared that nothing but a separate legislation could promote the amelioration of Ireland. Was it, then, sedition in Mr. O'Connell to hold the same opinion with the wisest, the most just, and most respectable individuals in this country? In support of my opinion I refer you to the trial of Hardy, page 211, that every act done by the persons who were charged with conspiracy was done, written, and published in the face of the world---that they could be found in every newspaper, in every coffee-room in the kingdom; and so it was with Mr. O'Connell even from the beginning of his public life. In January, 1800, he made a speech in the Royal Exchange, and he made that speech publicly---he made it under the surveillance of Major Sirr, a gentleman of considerable police talent. Yes, he who is now charged as a conspirator, made that his first speech

against the union. Forty-four years ago, at a great public meeting, he broached opinions for which the alleged charge of conspiracy is now preferred. In 1800, the corporation and the parish meetings in Dublin came to the conclusion, that after twelve or fourteen years the union was a fatal measure, and, therefore, should be repealed. The learned gentleman then proceeded to read from the report of the select committee on secret societies a description of the proceedings of the United Irishmen, in which secrecy and assassination were recommended as expedient for the carrying out of their designs. The society of United Irishmen was not a debating society (they seemed to have a horror of public speaking). Secrecy, it was said in page 67 of the report of the select committee on the secret societies, was expedient and necessary—that was the bond of their union. It would make the bond of union more cohesive, and the spirit of union more ardent, it would confound and terrify their enemies.” Another passage in the same page stated, that a “distinct agreement with France had been made to get help, assistance, arms, ammunition.” The report stated that the committee had found systematic proof of designs having been adopted by France to overturn the laws, civil constitution, and every existing establishment in Great Britain and Ireland.” He also read a passage from one of those papers in which the United Irishmen appealed to “Brutus, Prince of patriotic assassins,” as the model by which they would be guided in their treatment of “any villain that would aspire to sovereign power, or infringe on the people;” and he asked if any analogy could be supposed to exist between the proceedings of those men and the repealers, whose chief weapon was publicity and oratory. The United Irishmen had hung up in their place of meeting; “Beware of oratory.” Mr. O’Connell was certainly the last man who could be accused of bidding his followers to “beware of orators.” Oratory was the delight of Irishmen, it was one of the few enjoyments that the Irish people possessed, to listen to speeches (laughter). What would be the object of the Attorney General in referring to the United Irishmen, unless it were to show that the repealers, as they did, sought for French sympathy and French assistance? Could it be said that Mr. O’Connell sought for either; Mr. O’Connell who had abused Louis Philippe, who, according to Mr. Jackson, the correspondent of the *Morning Herald*, the gentleman who wrote the Kilrush Petty Sessions, and embellished his correspondence, condemned the French constitution and the French House of Peers, and even went so far as to state that the Irish people would give their assistance to restore the legitimate sovereign of the French nation to the throne of his ancestors. I submit, on the whole of this part of the case, that it is impossible, looking to the publicity of their proceedings, the time their opinions were first taken up, the motives that led those people to adopt those opinions, the consistency with which they adhered to them, it is impossible to come to the conclusion that any one thing that has been adopted, and as Lord Erskine says, printed and given to the world for the last twelve months, it is impossible to come to the conclusion that those persons were banded together in a wicked and abominable conspiracy to accomplish their nefarious designs, their preconceived plot, by the wicked means specified in that indictment. Gentlemen of the jury, Mr. Attorney General has deprecated, and deprecated strongly, the agitation of this question for a repeal of the union. He has told you

that there is a fixed settlement for ever of the constitutional relations between the two kingdoms. Gentlemen of the jury, the Irish people, or a large mass of them, are of opinion that they do labour under grievances—that there are causes and reasons why they should seek for a repeal of this union, and that you are not to condemn them on that ground. The universal people of this country look to the composition of the government which rules them. Its members are able, honourable, and distinguished; but there is not to be found amongst them a single individual connected with Ireland to represent the wants and wishes or the miseries of any section of the people. The nobility of the North—generous, kind, forbearing, to their tenantry; a bright example to all quarters of the kingdom; no one member of that ancient nobility shares in the imperial councils. The gentry and aristocracy of the South or West are equally excluded. In fact, the country which produced a Burke—the teacher of statesmen, the saviour of states; it is matter no less of surprise than concern; cannot supply one gentleman qualified to assist in the administration of the affairs of his native country. Self-legislation the Irish have lost; for self-government, they are, it seems, incompetent. They think had they a native parliament they would have a larger share in the management of their own concerns. Perhaps I may add, were we a united people we would have it also. Were there no other reasons against the system of the exclusion of Ireland, as such, from the government of the country, it hurts the national pride, and he is but a poor statesman who thinks the pride of a sensitive people can be wounded with impunity or safety. But, gentlemen, it is of small consequence, you may think, who the individuals composing a ministry may be, provided the people under their rule, are contented, prosperous, and happy. Are our countrymen so? Alas! a large portion are destitute. Pressed down by poverty, they look around for the causes. They behold a country blest by Providence with the means of health. They strive with gaunt famine for existence in the midst of fields teeming with fertility and plenty. The strong man pines for employment in his native land for the daily pittance of a sixpence. Must he starve in silence? May he speak in the language of complaint, remonstrance, indignation? If he does, is he seditious? And if, in the agony of his misery, he thinks, though erroneously, a native parliament might help him to employment, is he criminal to wish for the means of life? Is he seditious to say so? And if he feels his single voice would be unheeded as the idle wind, and unites with others, miserable as himself, to give weight to the expression of their common wants, is he—are his associates conspirators? Is the conspiracy the blacker, because no property has been invaded, no person injured, no outrage attempted, and that profound tranquillity has been maintained? These people think they have found the secret of their misery—the cause of their intolerable woe—the want of a resident legislature, and they imagine if they could obtain that blessing, employment would succeed to compulsory idleness, and food to starvation. They think, perhaps erroneously, that the presence of an aristocracy is a blessing to a country, and a resident gentry the source of industry and wealth. They conclude, perhaps rashly, it is not morally right that millions should be drained annually from the soil of Ireland by those whose tastes are too fastidious to permit them to spend one hour among the people who labour

to supply their extravagance or their necessities. They say, by the evidence of their senses they know the value of a resident peerage and gentry, by the happy results which flow from such a residence wherever it exists. They blame the Union for the loss of their gentry and aristocracy, and they see the crying evils of absenteeism daily increased—therefore, they object to the Union. The attractions of a parliament, they fondly imagine, would induce them to return—therefore, they demand a repeal of the Union. Alas! Ireland has little now to induce her gentry to dwell in their native land—its rare beauties lose their freshness while compared with the fascinations of the senate, or the glittering splendour of a court. Patriotism is a homely virtue, and can scarce thrive by absence, by an education, by a residence, by tastes, by feelings, by associations which teach Irishmen a dislike, not unmingled with disdain, for their native country. These people look to their stately metropolis. Have they no reasons for what you may think their mistaken opinions? Their memories are haunted by the recollection of its ancient glory—their minds affected by the melancholy conviction of its present nothingness. A once splendid capital the union has improved into the respectable town of a struggling province. The Irish people are acute enough to see, what cannot be hidden, the houses of their nobility boarding-schools or barracks—their University deserted—their Linen-hall waste—their Exchange silent—their Stamp-office extinguished—their Custom-house almost a poor-house—the very administration of justice threatened to be removed to Westminster; and they read, not very long since, a debate got up by the economists as to the prudence of removing the broken down Irish pensioners from Kilmaham to Chelsea, to effect a little saving, careless of the feelings, the associations, the joys, or the griefs of the poor old Irish soldiers who had bravely served their country. That cruelty was prevented by something like an exhibition of national spirit and national indignation. Thus the Irish people see all the public establishments of their capital extinguished by the hard rules of political economy, or withdrawn from the poorer kingdom to carry out the unbending principles of imperial centralization.—They behold the senate house of Ireland a bank—the magnificent structure within whose walls the voice of eloquence was heard, stands a monument of former greatness and present degradation. The glorious labours of our gifted countrymen within these walls are not forgotten. The works of the intellect do not quickly perish. The verses of Homer have lived for twenty-five hundred years and more, without the loss of a syllable or letter, while cities and temples and palaces have fallen. The eloquence of Greece tells of her freedom and the genius it produced. We forget her ruin in the recollection of her greatness. Nor can we read, even now, without emotion, the exalted sentiments of her inspired sons, poured forth in exquisite language, to save the expiring liberties of their country. Perhaps their genius had a resurrectionary power, and in later days quickened a degenerate posterity from the lethargy of slavery to the activity of freedom. Men have lived amongst us who approached the greatness of antiquity. The imperishable records of their eloquence may keep alive in our hearts a zeal for freedom and a love of country. The comprehensive genius of Flood—the more than mortal energy of Grattan—the splendour of Bushe—the wisdom of Saurin—the learning of Ball—the noble simplicity of Burrows—the Demosthenic fire

of Plunket--and the eloquence of Curran, rushing from the heart, and which will sound in the ears of his countrymen for ever. They failed to save the ancient constitution of Ireland--wit, learning, genius, eloquence, lost their power over the souls of men. With one great exception, our distinguished countrymen have passed away, but their memorials cannot perish with them. While the language lasts their eloquence lives, and their names will be remembered by a grateful posterity so long as genius shall be honoured and patriotism revered. The Irish people, lastly, demand that the union be repealed, because, they say, their feelings have not been consulted, nor their grievances redressed, nor their miseries relieved by the imperial parliament. Wealth has diminished, say they, amongst us; before us there is a gloomy prospect and little hope. Our character has been misunderstood, and frequently slandered--our faults magnified into vices, and the crimes of a few visited upon a nation. The Irish--the mere Irish--have been derided as creatures of impulse, without settled understandings, a reasoning power, or a moral sense. The Irish people have their faults--God knows they have; but they are redeemed by splendid virtues; their sympathies are warm, their affections generous, their hearts are brave. They have embraced this project of repeal with ardour. It is their nature where they feel strongly to act boldly and to speak passionately. You will not punish your countrymen for the enthusiasm of their character; remember what it has effected, and forgive its excesses. Recollect that same enthusiasm has borne them triumphantly o'er fields of peril and glory--impelled them to shed their dearest blood, and spend their gallant lives in defence of the liberties of England. The broken chivalry of France attests the value of their fiery enthusiasm, and marks its power. Their high spirit has its uses not merely in the storm of battle: it cheers their almost broken heart--lightens their load of misery, well nigh insupportable--sweetens the bitter cup of poverty which thousands of our countrymen are doomed to drink. Without enthusiasm what that is truly great has been achieved for man. The glorious works of art, the immortal productions of the understanding, the incredible labours of patriots and heroes for the salvation of the liberties of mankind have been promoted by enthusiasm, and by little else. Cold and dull were our existence here below, unless the deep passions of the soul, stirred by enthusiasm, were sometimes summoned into action for great and noble purposes: the overwhelming of vice, wickedness, tyranny--the securing and spreading the world's virtue, the world's happiness, the world's freedom. The hand of Omnipotence, by whose touch this island started into existence, amidst the waters which surround it, stamped upon its people noble qualities of the intellect and heart--directed to the wise purposes for which heaven designed them, they will yet redeem, regenerate, and exalt this country.

A loud burst of applause followed the concluding sentence.

Mr. Moore said that his friend Mr. Whiteside being very much exhausted, begged their lordships would permit him to postpone the remainder of his address (as he had not yet concluded all he had to say) to the following morning.

Their lordships at once acceded to this application, and the court adjourned.



## SIXTEENTH DAY.

At the sitting of the court Mr. Whiteside rose to resume his address to the jury, but was interrupted by the

Chief Justice, who begged he would wait for a moment, and then proceeded to observe :---I am not now addressing myself to you, Mr. Whiteside, but I would wish the people in the gallery would attend to what the court feel right to say with regard to the impropriety which took place yesterday evening. A great deal of cheering and improper noise took place---a just tribute due to the distinguished talents of Mr. Whiteside, but a great indecorum, and improperly committed before the court. Such a thing cannot be allowed again; and those who are disposed so to signify their approbation, or disapprobation, of what takes place in this court, must be informed that the court is not the place to show any signs of such feeling; and they must hold their tongues and keep quiet.

Mr. Whiteside then resumed his address. He said---I shall draw your attention now, gentlemen, to the charge in this indictment on the subject of the arbitration courts. This single accusation is spread over a great portion of the indictment, and much dwelt upon by my friend, the Attorney General, in his address to you. I apprehend it would astonish you very much if any of you were prevented on the ground that you recommended one of your brother jurors not to go to law. You must recollect the thing to be done, and advised to be done, and how it is to be done---to see if the act itself be legal, and if the means adopted for the carrying out of the act be legal also. I submit that it is both a religious and moral duty, if possible, to compromise the subject matter of litigation between two parties, and you will find it in that book which I am sure is a high authority in your estimation; for, saith the Scripture, "*agree with thine adversary quickly while he is in the way.*" Again, St. Paul says, 1 Cor. vi.---"*Now, therefore, there is utterly a fault among you, because ye go to law one with another: why do ye not rather to be wrong?---why do ye not rather suffer yourselves to be defrauded?*" Next, it is a moral duty. In Paley's Moral Philosophy, entitled "*Litigation*," you will find these words---"*But since it is supposed to be undertaken simply with a view to the ends of justice and society, the prosecutor of the action is bound to confine himself to the cheapest process which will accomplish these ends, as well as to consent to any peaceable expedient for the same purpose; as to a reference in which the arbitrators can do what the law cannot, divide the damage when the fault is mutual, or to a compounding of the dispute by accepting a compensation in the gross without entering into the articles and items, which is often very difficult to adjust separately. Therefore, the thing recommended to be done is both a religious and moral duty. The law itself respects arbitration and encourage it by every means, and it has occurred frequently in our experience, that while a suit was pending, and after great expense was brought before a judge and jury, it has been suggested by the counsel or the court that the subject matter of that dispute shall be referred by consent to discreet men to adjudicate upon it. The statute law of the land*"

recognizes arbitration. By the 10th William III. it is provided that it shall be lawful to refer matters to arbitration. By two latter statutes, one that is called by the name of the learned gentleman who passed it—Pigot's Act, 3rd and 4th Victoria, there are provisions introduced to facilitate arbitration and compel the attendance of witnesses. By the 5th and 6th William IV., it is also recognised, and by the 5th and 6th Victoria, where the matter in dispute is under 20*l*, the arbitration awards are relieved from stamp duty. The statute law recommends arbitration to be adopted where it makes no positive enactment on the subject. (The learned gentleman referred to the Friendly Society act, and several authorities to show that arbitration was recognised, and proceeded)—Thus, gentlemen, you perceive that religious morality support and sanction, and that the statute assist in enforcing arbitration—that arbitration to rest exclusively on the consent of the parties. Having referred to Blackstone's Commentaries in support of his proposition, he proceeded—Now, gentlemen, to apply this matter to the parole evidence given before us. The parole evidence consisted of the testimony of Hovendon, a policeman. He stated that he was an inspector of police; that he went into a reading-room at the Black Rock; he was received with kindness; there were no professional men there in wig or gown; no oath was administered; the parties proceeded solely and singly, by consent of the parties, and they disclaimed all other jurisdiction. On consent, and consent alone, they acted; two parties appeared before them, and that vital suit was referred to Kingstown, but whether it was settled or not I know not. Referring to the doctrines I have stated, it is plain that on consent, and consent only, did the parties presume to act. To advise men not to go to law is no crime, but a moral duty, and that several should agree in the recommendation, in the performance of a moral duty, is not a crime. The thing to be done is not illegal, and the question is whether the mode in which it is done is illegal, to carry out the common plot or conspiracy laid in the indictment. Four or five documents were read by the Attorney General, but they proved nothing; one being the form of summons served by one party on the other. I tell you that if a matter was referred to you by two brother jurors in the box, you must give, and it is the usual practice for gentlemen when a matter is referred, to give and sign the same form of notice apprising the parties they are to come before them, on a particular day, and refer the matter in dispute to them, so that allegation is good for nothing. As to the other document, the form of award, it shows nothing but how a proper award may be made. The statute law prescribes that if the subject matter of arbitration be 20*l*, and upwards, the award must be stamped, that the revenues of the country may be protected. The form of carrying out the award shows only this, that where there is a consent to refer a dispute to A. B. here is the form of award in which the consent can be carried into execution; and the directions read state—you are to take notice the arbitrators have no power, authority, or jurisdiction, except by consent of such parties as came before them. That was the last rule adopted by the association; and the proposition of Doctor Gray, that any person that would not abide by the decision of the arbitrators should be expelled from the association, was not adopted. There is nothing more in this part of the case but this—a recommendation to the parties to consent to arbitration. That consent is the root of all

references to arbitration, and the thing being a moral thing to do, and the means being legal, I submit that this novel, this unprecedented, extraordinary ground of accusation cannot be relied upon in the present case. It is said you did more—you not only induced parties to refer suits to arbitration, but that those justices that had been dismissed should be selected as arbitrators. That has been most strongly pressed by the Attorney General, and has been over and over again urged. I admit frankly that it was said by Mr. O'Connell and others that they hoped that those persons being dismissed justices residing in some parts of the country should be selected or appointed to act on behalf of the people; and they hoped the time would come when the people would be at liberty to elect their magistrates. It arose from a matter merely accidental, and never was intended or contemplated by those who became repealers. It was long afterwards that the act was done which led to the appointment of these ex-justices as arbitrators, and it was not the result of a common design. It arose from the act of the government. They saw that a number of gentlemen of high respectability, attended these repeal meetings, and it is quite plain, from reading the correspondence of the Lord Chancellor, that he did not consider they had thereby done an illegal act. In his letter of the 28th of May, 1843, he says that it had been his earnest determination not to interfere with expression of opinion by any magistrate in respect to the repeal of the union, although, from his arrival in this country, he felt it to be inconsistent with his duty to appoint to the commission of the peace any one who was pledged to the support of that measure; but he afterwards assigns as his reason for dismissing them, that after the discussion in the House of Lords, and the declaration made in parliament by Sir R. Peel, in answer to the plain and distinct question of Lord Jocelyn, he felt it his duty to ask whether they intended to attend any more of these meetings, and if so, to dismiss them. That letter plainly showed that attending these meetings originally was not an illegal act, and his letter was then merely a warning. Gentlemen, it is not my duty, consistent with the high respect I entertain for that distinguished functionary, to enter on a discussion of the grounds on which he proceeded; but there were men of high authority expressed their opinions upon it, and among others, two who had filled the office of Lord Chancellor of England. I mean Lord Cottenham and Lord Campbell, who, in the House of Lords disputed those grounds, and said very plainly that it was unconstitutional to dismiss those magistrates. That a justice of the peace had the same right to express and entertain his opinion as any other man in the community, and that for having so done it was illegal and unconstitutional to dismiss them. When the members of the Repeal Association saw that such high legal authorities entertained that opinion in reference to the dismissal of these magistrates, and considered that the declaration against repeal, on which their dismissal was based, did not come directly from her Majesty, or in any constitutional shape upon her authority, they did—and it is not for me to say who was right or who was wrong—seeing that these gentlemen possessed the confidence of the people, that the people were piqued at their dismissal, recommended their appointment as arbitrators, and, in the words of Mr. O'Connell, “recommended that all miserable petty

sessions litigation should be put an end to, and that all disputes arising in those districts where the magistrates had been dismissed, should be referred to them as arbitrators, and that he hoped the day would come when he would see the magistrates appointed by the people. Gentlemen, I defend that assertion of Mr. O'Connell. He had a right to make that observation. I have yet to learn from Mr. Solicitor General that it is illegal to express a wish to walk in the ancient footsteps of the constitution, and that a desire to return to the ancient state of the wise administration of justice is a combination and a conspiracy. The more we investigate the old rules of the common law of England, the more deep is our respect for and attachment to them. They were based on the soundest principles of constitutional freedom, and they only serve to show how strong should be our attachment to those principles which form the basis of public freedom and liberty. Gentlemen, the ancient title of a justice of the peace, or magistrate was "Conservator of the Peace." In the second volume of Coke's Institutes, page 558, he says:—"These conservators, by the ancient common law, were, by force of the king's writ, chosen in full and open county, *de probrioribus et potentioribus comitatibus*, by the freeholders of the country, after which election, so made and returned, then in that case the king directed a writ to the party so elected." And, gentlemen, on this subject there is a great deal of instructive commentary in the able argument of one of the learned judges now upon the bench—I mean Mr. Justice Perrin, in the case of Taaffe and Downe's, page 778—which shows a good deal of the origin of the appointment of those justices to which I adverted. The sheriffs were originally appointed by the people, and they had the appointment of the juries. The law did not give the appointment of the sheriffs to the crown, because if a cause might arise between the crown and the subject, he might return an irregular jury. The sheriff was elected by the people for the same reason as Lord Coke says, because their office concerned the administration of justice to all. The coroner, for the same reason, was appointed by the people, and he alone of the three is now the same as in ancient times elected by you, by the people, as were the sheriffs and justices of the peace. The appointment of sheriffs are now vested in the worthiest hands in which they could be placed—the judges of the land, and the crown are bound to select a sheriff from the names of fit and proper persons returned by the judges. Now, if you wish to know how the people lost their right of appointing those officers, you shall hear it in the language of one of the most eminent legal authorities that you can be referred to. I quote from the first volume of Blackstone's Commentaries, page 347—"But when Queen Isabel, the wife of Edward the Second, had contrived to depose her husband by a forced resignation of the crown, and had set up her son, Edward the Third, in his place; this being a thing then without example in England, it was feared would much alarm the people, especially as the old King was living, though hurried about from castle to castle, till at last he met with an untimely death. To prevent, therefore, any risings, or other disturbances of the peace, the new King sent writs to all the sheriffs in England, giving a plausible account of the manner of his obtaining the crown, and withal commanding each sheriff, that the peace be kept throughout his bailiwick on pain and peril

of disinheritance and loss of life and limb, and in a few weeks afterwards it was ordained in parliament that good men and lawful should be assigned to keep the peace. And in this manner, and upon this occasion, was the election of the conservators of the peace taken from the people and given to the King." Gentlemen, I think the question of arbitration is so far set at rest. I have but one remark more to make, and that is, that before you hold anything to be criminal, merely because it is novel, you will ask, and require from the crown to show you some plain, clear expression in a book of law constituting the criminality of that act. Another short topic was adverted to by my learned friend the Attorney General—the Queen's speech---and I shall now ask you to attend to what I suggest in regard to it. It may have occurred that unseemly language was used in relation to that document, but I beg of you to bear in mind the distinction which was always made between it as not the act of her Majesty but that of ministers. Our gracious Sovereign is not responsible for any one word in that speech. The Whig ministry censured the Tory speech, and that Tory censured the Whig speech, and I believe it is not within the compass of human possibility to frame a speech so as to please all parties. Gentlemen, I shall refer you to two authorities, which I hope the Attorney General will not censure me for quoting. You may wish to know in what terms two stout Conservative newspapers treated the speech of her Majesty in July, 1839, on the education question. I quote from the London *Standard*, and what is its language? The answer, insulting to the majority of the House of Lords, the half of the House of Commons, and the whole people---an answer not to be surpassed in petulance and insolent hypocrisy, by anything that has proceeded from the throne since the expulsion of the Stuarts; is thus, by the vile self-artifice of Lord Melbourne, brought home to the Queen personally. Is this the way to insure her Majesty the affection and respect of her people? Will they love her more for preferring the interests of Lord Melbourne to their wishes? Will they respect more a princess of twenty years and two months, because she is represented as rebuking sharply the majority of the Lords, the great majority of the British members of the House of Commons, the nation and the church, and associating with that rebuke a claim of confidence in her attachment to the interests of the church, almost in the words of the Popish tyrant, James the Second? Has the Queen no friend to set the truth of these matters before her Majesty? Alas! we fear she has none! An execrable foreign influence interposes between her Majesty and her truest and best friend—that friend whom nature and experience call upon her to trust before all others. We know not what the House of Lords may think it right to do on this answer. We hope, however, that an acknowledgment will be extorted from Lord Melbourne that the answer is his and not the Queen's, in any but the merely formal sense. This is absolutely necessary in justice to her Majesty." So much for the *Standard*, and now, gentlemen, permit me to draw your attention to the mild and gentle strictures which appeared in another journal of similar politics—the *Morning Post*---about that same speech. I purposely confine myself to a reference to those newspapers, for I am well aware that they are papers which are likely to find favour in the eyes of the counsel for the crown; and I think it utterly impossible that

journals whose political principles are so thoroughly orthodox, could commit any error on the subject of the right of the public to express their opinions without reservation, in reference to the speech of the Sovereign. Hear, then, the *Morning Post*: "We are of opinion that it is impossible to conceive anything more grossly ungenerous; anything more unmanly and base than the conduct of the present ministry to their Sovereign. Look at the answer to the address of the House of Lords which these ministers have presumed to put into the mouth of her Majesty. Was ever sovereign so misguided and degraded before, except in those unhappy periods when rude rebellion has lorded it over legitimate monarchy? Most sincerely do we pity the monarch who is made the victim of an administration at once so daring and so contemptible. We know not how long this is to be borne. We think it has been borne too long already. We call on every man who thinks that the religion of the people, and the safety, honour, and dignity of the crown matter of importance, to make a personal stand against the vileness which appears to infest high places. We know what the present administration has given us. It has given us a frivolous, scandalous, and prurient court; a dishonest and despised government; a wronged, insulted, and indignant people. We trust that the day may yet be when all this will be reckoned up, and when justice will be done to the guilty." Which being interpreted, meaneth when the Whigs go out and the Tories come in (laughter); and now, gentlemen, let me implore of you to treasure up in your memory these elegant extracts (laughter.) Remember how the Tories speak of the Whigs, and how the Whigs speak of the Tories, and then consider whether you can find it in your hearts to deny to a man who, like Mr. O'Connell, does not care a bean-blossom either for Whig or Tory, the right of abusing whatever ministry may chance to be in power for whatever speech they may please to put into the Sovereign's mouth (laughter.) But I defy the Solicitor General to quote from any one of Mr. O'Connell's speeches anything in reference to a Queen's speech which comes within a thousand degrees of the severity of these comments. I challenge him to show that Mr. O'Connell ever uttered a sentence in his life which contained a reflection as these newspapers do on the person of her Majesty; and I say it with pleasure, for I cannot but deprecate such observations, for they indicate something on the part of the man who uses them which does not partake of that high feeling of loyalty which ought to characterise all well-disposed subjects, and which ought assuredly to characterise, in a supereminent degree, everything that comes from such constitutional quarters as the *Standard* and *Post*. Gentlemen, the next charge brought against the traversers is that of endeavouring to excite disaffection and discontent amongst her Majesty's subjects serving in the army. It is a singular charge, and peculiarly so from this remarkable circumstance, that it is not asserted that the traversers undertook or conceived any project for the purpose of exciting mutiny amongst the troops, or encouraging the practice of desertion. It is merely charged against us that we endeavoured to excite discontent and disaffection; but it is not stated amongst whom we endeavoured to excite discontent, or against whom disaffection. Mr. O'Connell's remarks in reference to the army arose, in the first instance, out of a most tragical transaction which occurred last summer. A soldier

dropped suddenly dead while on drill, and the coroner's jury, which sat upon the body, added to their verdict a statement to the effect that his death was induced by great fatigue consequent upon excessive drilling. This verdict gave rise to an infinity of public discussion, particularly in the newspapers, some of which contended that the jurors were not justified in appending that statement, for that it was subversive of the discipline, while others as stoutly maintained that the jurors were quite right in having done so, for that it was full time that the grievances of the soldiery should be inquired into. The memory of this occurrence was yet fresh in the public mind, when another equally tragic event occurred. A private belonging to the 5th Fusiliers, a Protestant, and an Englishman, stepped out of the ranks, when on a drill, and shot the adjutant, a Scotch officer, dead upon the spot. This dreadful occurrence also gave rise to much discussion, and men asked each other whether there must not be something wrong in the discipline of the army---something exceedingly oppressive upon the soldiery---when a man of good character---who, up to that time, had conducted himself with strict propriety---could be guilty of a crime so horrible and atrocious. It was the topic of general observation. Mr. O'Connell incidentally, in the course of his speeches, made some allusion to it; and a clergyman, of the name of Power, also wrote a letter on the subject, which was published in the *Pilot*. Of that letter I will say nothing, for Mr. Power is defended here by counsel.

Chief Justice---There is no traverser before the court of the name of Power.

Mr. Whiteside---Oh, no, my lord, I am aware there is not. What I meant to convey was, that there is counsel here for the gentleman who is responsible for the publication of that letter. That letter may, perhaps, be fairly enough adduced in evidence against Mr. Barrett, but I deny that it can be adduced in evidence against the other traversers; and what I complain of is, that the invisible gentleman with the scissors should have been so exceedingly polite as to have introduced it into his indictment for the purpose, forsooth, of proving a conspiracy against my client! No specific act is laid to Mr. O'Connell's charge, designed for the purpose of weaning the soldiery from their allegiance; and the head and front of his offending consists in his having expressed it as his opinion, that sergeants ought to be more frequently promoted to commissions. But, gentlemen, were it not that I do not wish to weary out your patience, I could quote you extracts *ad infinitum* from military works, written by officers in the army, in which the same doctrine is distinctly propounded. For my part I pass no opinion upon the subject, but I cannot see why the right of other parties to do so should be disputed. Gentlemen, the Attorney General has called the traversers severely to task for having adopted the resolution of the old volunteers, and for having quoted in their speeches the words of some illustrious men, now no more, who expressed it as their opinion that, in point of constitutional principle, and upon constitutional reasoning, the Union was null and void. He told you what is stated by members of parliament against an act, before it becomes law, cannot justify a man in opposing that act of parliament after it shall have become the law of the land. That is certainly true to a certain extent; but I cannot help thinking that the Attorney General is endeavouring to

push the principle somewhat too far. He finds fault with us for having quoted the words of that distinguished man, Mr. Saurin, but I do not think that he had any right to call us to task for having done so. Why should not Mr. O'Connell refer to Mr. Saurin's words? They are public property---they are the property of the Irish people. The sentiments honestly and deliberately expressed of a member of the legislature, are worthy of being perused, for we are to suppose that they faithfully represent his thoughts on the occasion, and I do not think that any man is justified in placing on record, and handing down to posterity any opinion of his with a view to prevent a law passing, which opinion he does not consider to be founded on truth. But, gentlemen, it is a monstrous thing to impeach Mr. O'Connell at this period for having used Mr. Saurin's words. If it was treason to do so, why was he not indicted long ago? It is rather too late now, for it appears he has been doing so unremittingly for the last thirty-four years. My lords and gentlemen, I hold in my hand the report of the trial of Mr. Magee, of the *Evening Post*, in the year 1813, and by reference to page 109, I find that Mr. O'Connell used the following words. [The learned counsel here read an extract from Mr. O'Connell's speech on the occasion in question, in which the honourable and learned gentleman quoted the memorable expression of Saurin, declaring that the Union was not binding on conscience). My lords, Mr. Saurin was present when Mr. O'Connell thus expressed himself, and he never denied having used these words, nor ever withdrew them. And now let me refer you to the parliamentary debates upon the question of the Union---of the incompetency of the parliament to pass that measure, and of the means by which it was carried, and direct your attention to the fact, that there was scarcely a speaker of distinction who did not prophecy that the day would come when the Union would be re-discussed and re-agitated. Mr. Bushe says, addressing Lord Castlereagh,

"You are called upon to give up your independence and to whom are you to give it up? To a nation which for six hundred years has treated you with uniform oppression and injustice. The treasury bench startles at the assertion---*non meus hic sermo est*. If the treasury bench scold me, Mr. Pitt would scold them---it is his assertion in so many words in his speech---Ireland, says he, has been always treated with injustice and illiberality---Ireland, says Junius, has been uniformly plundered and oppressed. This is not slander of Junius or the candour of Mr. Pitt---it is history. For centuries has the British nation and parliament kept you down, shackled your commerce, paralysed your exertions, despised your character, and ridiculed your pretensions to any privileges commercial or constitutional. She never conceded a point to you which she could avoid, or granted a favour which was not reluctantly distilled. They have been all wrung from her, like drops of her heart's blood, and you are not in possession of a single blessing except those which you derive from God, that has not been either purchased or extorted by the virtue of your own parliament from the illiberality of England." And again,

"Let me adjure the nob'e lord to weigh well and consider deeply the probable permanency of a measure so conducted; let me implore him to



avail himself of the passing experience of his own days, and of the instructions which history may afford him, and when he sees volcanic revolutions desolating the face of the political world, the first elementary principles of society loosening and dissolving, and empires not built upon the liberties of the people crumbling into dust, let him contemplate the awful change which he is about to accomplish, and consider the dreadful responsibility he incurs to his sovereign, by exchanging the affections of a loyal nation for the reluctant obedience of a degraded and defrauded province. Let him look for the permanency of this transaction, something farther than to the vote of the night, or the job of the morning, and let him have some better document than his army for the affections of the people; let him consider whether posterity will validate this act, if they believe that the constitution of their ancestors was plundered by force, or was filched by practice. Let him, before it be too late, seriously ponder, whether posterity will validate this act, if they believe that the basest corruption and artifice were exerted to promote it; that all the worst passions of the human heart were enlisted into the service, and all the most depraved ingenuity of the human intellect tortured to devise new contrivances of fraud. I do not say those things have been—I state hypothetically, and ask, if posterity believe such things will they validate the transaction? If they believe that there was foul play from the first moment to the last, both within doors and without, that the rabble were appealed to from the parliament, and debauched or intimidated to petition against the constitution of their country; if they believe that in parliament the disgust of the measure, notwithstanding a proscription which made office incompatible with honour, stained the treasury bench—that the disgust of the measure broke asunder and dissociated some of the tenderest and most delicate connexions of human life—that the nominal office of Escheator of Munster became an office of honourable competition, and after the parliament was thus reduced, that the Irish Commons were recruited from the English staff. If they were to believe those things, and that human frailty, and human necessities were so practised upon; that the private sentiments, and the public conduct of several could not be reconciled, and that where the minister could influence twenty votes he could not command one ‘hear him.’ I say not that these things are so; but I ask you if your posterity believe them to have been so, will posterity validate this transaction, or will they feel themselves bound to do so? I answer—Where a transaction, though fortified by seven-fold form, is radically fraudulent, that all the forms and solemnities of law are but so many badges of the fraud, and that posterity, like a great Court of Conscience, will pronounce its judgment. Let me not be misunderstood—I am sure I shall be misrepresented—odious as this measure is in my eyes, and disgusting to my feelings, if I see it carried by the free and uninfluenced sense of the Irish parliament, I shall not only defer and submit, but I will cheerfully obey. It will be the first duty of every good subject. But fraud, and oppression, and unconstitutional practice, may possibly be another question. If this be factious language, Lord Somers was factious, the founders of the revolution were factious, William the Third was an usurper, and the revolution was a rebellion. For what did James the Second lose his Crown? Can the

case of the seven Bishops be compared with the case of Ireland? I shall not draw the parallel."

Another of the learned judges of the land, who has since retired from the bench—I mean Mr. Justice Moore—spoke on that occasion. His words will be found at page 81 in the last volume of the debates—"Sir, I have no hesitation to say that if they carry the measure under all the circumstances which I have stated and observed upon, it will be a robbery, and not a treaty—an act of constraint and violence, and not of compact and volition—a conquest, not a union. A union upon such principles, and accomplished by such means, policy never can require, justice never can satisfy, wisdom never can approve, patriotism never can reconcile, time never can cement, and force never can establish. It might be a union for a few days, a few months, perhaps for a few years; but it would be followed by ages of ill-blood, generations of hostility, centuries of contest, and desolation, and misery, to this island to all eternity. It would be a union founded on the violation of public faith—erected on national degradation—equally subversive of the moral, physical, and political fitness of things, and equally odious and abominable in the sight of God and man." Gentlemen, I will give you only the closing words of Grattan on that occasion. He said—"The question is not now such as occupied you of old. Not old Poynings—not peculation nor plunder—not an embargo—not a Catholic bill—not a reform bill: it is your being; it is more—it is your life to come. Whether you will go with the Castle at your head to the tune of Charlemont and the Volunteers, and erase his epitaph, or whether your children shall go to your graves saying, 'A venal, a military court, attack the liberties of the Irish, and here lie the bones of the honourable dead men who saved their country.' Such an epitaph is a nobility which the King cannot give his slaves—'tis a glory which the crown cannot give the King." Gentlemen of the jury, Mr. Saurin made a speech on that occasion; and when we refer to a man's speech, we should take into account his character, and the circumstances under which he spoke. We should see if the man is a rash and fiery politician, and that his words are not entitled to respect and esteem. Was that man rash and fiery? No, he was remarkable for the solidity of his judgment, the seriousness of his mind, the gravity of his style; he did not contend certainly that the parliament might not be so constituted as not to pass a bill of union; but he said you are not elected by the Irish people with the knowledge that you are brought here to vote away the liberties of that people. If you do so, it is illegal and void. Before the Scotch union was carried, a notice was given to the people that the representatives were to be elected for that purpose. Mr. Saurin said:—

"But I conjure the house to consider well not only the nature of the measure itself, and the effect which it may have on the country before it acceded to the present resolution. Under the constitution of Ireland we have lived happy—we have all bettered our condition—our country has advanced in greatness, with uncommon rapidity—our commerce has increased—our agriculture improved—our laws have assumed a sublime and impartial character—it has furnished every thing for hope, and nothing for despondency. It is that constitution which has given those benefits to which we have sworn allegiance; and I caution those who would annihilate

it for ever, of the heavy weight of responsibility which they must incur in the prosecution of their project. If the measure is good, and to think it deserving of being considered by the country. *dissolve* the parliament, take the sense of the nation constitutionally. I know no other mode in which the voice of the country can be properly collected; but do not introduce the placemen whom you have sent out and call their return an expression of the voice of the nation. Give the country fair play; let it speak through its constitutional organ; its voice will have its weight and you at least will, if you should be disposed to entertain this measure, have a decent colour for your proceedings. Sir, I do not wish to recur to the unhappy scenes which have lately so materially injured our country; but it should be remembered that the profession of which I am a member, which from its education, its habits, its zeal to defend the constitution in the hour of its danger, and that profession has expressed itself decidedly against this measure, and your incompetency to entertain it. From the rank which I hold in that profession, many of my friends think that it may be conducive to the public cause that I should appear in this house to give the measure of the union a most decided negative; no other earthly consideration could have induced me to trespass on your patience. I have come forward at their solicitation; and when I tell you I am an enemy to union, it is because I am an ardent friend to his Majesty's crown and to British connexion."

Gentlemen, I will trouble you with one word more: it is the declaration of the Lord Fitzgerald and Vescey, who at the time was prime serjeant of Ireland, a very lucrative office. He sat in the House of Commons at the time, and hear what he says---"Posterity will inquire into the means by which this union was carried. If the question had never been made, I should have declined the discussion of it; but as it has, I must declare that it is not, in my opinion, within the moral competence of parliament to destroy and extinguish itself, and with it the rights and liberties of those who created it. I acknowledge the competency of the English parliament to adopt the union with Scotland, because the number of the representatives and the peerage only was increased, which as the crown by its prerogative may do, so may the act of the legislature. But after the union the constitution of England continued, but the constitution of Scotland was dispersed. And of this opinion must the great advocate of constitutional establishment have been. The House of Lords was not competent to dissolve the House of Commons, nor even to dissolve itself, nor to abdicate if it would its proportion in the legislation of the kingdom; that though a king may abdicate in his own person, he cannot abdicate for the monarchy. The constituent parts of a state are obliged to hold their public faith with each other. Such a compact may, with respect to Great Britain, be a union, but with respect to Ireland it will be a revolution. The Scottish parliament was elected with a notice to the people that such a measure would be submitted to their discussion. How different the present case. Will the measure proposed benefit the country, and remove the causes of the discontent? In my opinion not. It will, on the contrary, increase the agitation of the one, and aggravate the other? Will it tranquillize this great metropolis, which so lately as the last summer, by its valour and spirit, preserved this country to ourselves and

to Great Britain, while the government of the country lay shuddering in the Castle? Whom, then, will it gratify? Not the loyalists, but the United Irishmen. Nine in ten of the men execrate the measure—the women are unanimous against it. Would to God that they would emulate the Athenian ladies, and subject the man who would vote for it to the ban of their displeasure. Will it give you any stronger claim on Great Britain? No; and I am satisfied that the honour of the British nation would reject such an insinuation. Would Great Britain, that arms for the deliverance of Europe, that seized Prussia, Sardinia, the Emperor, and guarantees his loans, that makes Egypt an object of his care; will she refuse her protection to Ireland?" He concludes; "Posterity will inquire into the means by which this union is carried." Gentlemen, you see what that man clearly foresaw. Yes, he saw that posterity would inquire into the means by which that union was carried, and posterity has inquired into the means by which it was carried, and by which they lost the last glory of their nation—a free parliament. Those men were not satisfied with passing speeches. No, they have left on record their strong and decided opinions on the subject; they were not satisfied with the speech of the moment; they drew up a solemn and elaborate document, in order to leave their opinions to posterity, and in order to procure this document a place in the records of parliament, that all future generations might refer to the sentiments entertained by them on the subject of the union. It was drawn up and put on record, and Lord Corry, son of Lord Belvidere moved the protest and address to his Majesty. Mr. Whiteside then read from the 4th volume of Grattan's Speeches, the protest adopted by the anti-union members. The following is the extract:—

"On this day Lord Corry, with a view to leave on record the sentiments of the people of Ireland against the union, moved the following address to his Majesty, which, as it contains the principal objections made by the leaders of the opposition to this measure during the course of the session, has been thought worthy to insert:—

"Were all the advantages, which without any foundation they have declared that this measure offers, to be its instant and immediate consequence, we do not hesitate to say expressly, that we could not harbour the thought of accepting them in exchange for our Parliament, or that we could, or would, barter our freedom for commerce, or our constitution for revenue; but the offers are mere impositions, and we state with the firmest confidence, that in commerce or trade their measure confirms no one advantage, nor can it confer any; for by your Majesty's gracious and paternal attention to this your ancient realm of Ireland, every restriction under which its commerce laboured has been removed during your Majesty's auspicious reign, and we are now as free to trade to all the world as Britain is.

"In manufactures any attempt it makes, to offer any benefit which we do not now enjoy, is vain and delusive; and, wherever it is to have effect, that effect will be to our injury. Most of the duties on import, which operate as protections to our manufactures are, under its provisions, either to be removed or reduced immediately; and those which will be reduced, are to cease entirely at a limited time; though many of our manufac-

tures owe their existence to the protection of those duties; and though it is not in the power of human wisdom to foresee any precise time when they may be able to thrive without them.

"Your Majesty's faithful Commons feel more than an ordinary interest in laying this fact before you; because they have, under your Majesty's approbation, raised up and nursed many of those manufactures, and by so doing, have encouraged much capital to be vested in them; the proprietors of which, are now to be left unprotected, and to be deprived of the Parliament on whose faith they embarked themselves, their families, and properties, in the undertaking."

And again,

"But it is not only in respect to these delusions held out as to trade and revenue that we feel it our duty to lay before your Majesty the conduct of your ministers on this measure; we must state the means by which they have endeavoured to carry it. That in the first instance, admitting the necessity of conforming to the sense of the Parliament and the people, they took the sense of the Commons, and found that sense to be against it; that they then affected to appeal against the Parliament to the people, at the same time endeavouring, by their choice of sheriffs, to obstruct the regular and constitutional mode whereby the sense of the people has been usually collected; that on the contrary, they did use or abet and encourage the using of various arts and stratagems to procure from individuals of the lowest order, some of whom were their prisoners and felons, scandalous signatures against the constitution; that notwithstanding these attempts to procure a fallacious appearance of strength and muster against Parliament, the people have expressed their sentiments decidedly against the union, and twenty-one counties at public meetings legally convened, and also many other counties by petitions signed by the freeholders, and many cities and towns, have expressed, either to your Majesty or to this House, or to both, their decided and unalterable hostility to this union, yet your ministers have, as we believe, taken upon them to state to your Majesty and your ministers in Britain, in defiance of all these facts, that the sense of the nation is not adverse to the measure; that if there could be any doubt that your Majesty's ministers in the appointment of sheriffs did consider how they might obstruct the people in delivering their opinion regarding the union, that doubt is fully explained by their continuing in office the sheriff of the former year in more than one instance, whence it also appears how decidedly the sense of the country is against this measure, when your Majesty's ministers found it difficult to procure any person to serve the office of sheriff who was properly qualified, and was also a friend to the measure; that finding the sense of the people as well as the Parliament to be against it, your Majesty's ministers attempted to change the Parliament itself, and refusing to take the sense of the nation by a general election, they procured a partial dissolution, and did so publicly abuse the disqualifying clause in the place bill (which was enacted for the express purpose of preserving the freedom and independence of Parliament,) that by vacating seats under its authority, very many new returns were made to this House, for the purpose of carrying it, and thus did they change the Parliament without resorting to the people; that before the ministry had perverted the place bill, the sense of Parliament

was against their union, and if that bill had not been so perverted, that sense had remained unaltered; that of those who voted for the union, we beg leave to inform your Majesty, that seventy-six had places or pensions under the Crown, and others were under the immediate influence of constituents who held great offices under the Crown; that the practices of influence above mentioned were accompanied by the removal from office of various servants of the Crown who had seats in Parliament, particularly the Chancellor of the Exchequer, the Prime Sergeant, three Commissioners of the Revenue, a Commissioner of Accounts, a Commissioner of Barracks, and the Cursitor of the Court of Chancery, because they would not vote away the Parliament; also by their withdrawing their confidence from others of your Majesty's faithful and able Councillors for the same reason; that they procured or encouraged the purchase of seats in this House, to return members to vote for the union, also the introduction of persons unconnected with this country to vote away her Parliament; that they have also attempted to prostitute the peerage, by promising to persons, not even commoners in Parliament, her sacred honours, if they would come into this House and vote for the union; and that, finally, they have annexed to their plan of union an artful device, whereby a million and a half of money is to be given to private persons possessing returns, who are to receive said sum on the event of the union, for the carrying of which, to such an amount said persons are to be paid; and this nation is to make good the sale by which she is thus disinherited of her parliament, and is to be taxed for ever to raise the whole amount, although if your ministers shall persevere in such a flagrant, unconstitutional scheme, and the money is to be raised, it is for the union, and being therefore an imperial concern ought to be borne in the proportion already laid down for imperial expenses, that is, two seventeenths by Ireland, and fifteen seventeenths by Britain; that under these unconstitutional circumstances your Majesty's ministers have endeavoured, against the declared sense of the people, to impose upon them a new constitution, subverting the old one."

And again,

"That whether we rest on this incontrovertible and self-evident truth, that no Parliament in another kingdom can have the local information or knowledge of the manners, habits, wants, or wishes of the nation, which its own Parliament naturally possesses, and which is requisite for beneficial legislation; nor can be supplied with the necessary information, either as promptly or accurately; or whether we look to the clear proofs of that truth, which the progress of this measure has afforded, by our ministers having called to their assistance, in London, the great officers of this kingdom, most likely, from their station, to give full information for framing their measure; and though all their talents, and all their own information, and what they obtained by letters while it was pending, were employed for months there, yet, when they brought it back, a few hours' or rather a few minutes' enquiry on the spot, in Dublin, forced them to alter their project in very many articles, complete and perfect as they thought it. We have strong additional reason to tell and to represent the manifest and irreparable injuries which this kingdom must sustain by the want of a resident Parliament, and the impossibility of legislation being carried on for it as it ought to be.

"Therefore, inasmuch as the measure of an Union is an unnecessary innovation, and innovations, at all times hazardous, are rendered peculiarly so now by the awful situation of the times ;

"Inasmuch too, as far from being an innocent experiment, it is replete with changes injurious to our trade and manufactures, and our revenues ;

"Inasmuch also, as it destroys our constitution which has worked well, and substitutes a new one, the benefits which we cannot see, but the numerous evils and dangers of which are apparent, and which, in every change it offers, militates against some known and established principle of the British constitution ;

"Inasmuch, also, as it so far endangers the constitution of Britain as not to leave us the certainty of enjoying a free constitution there when our own shall be destroyed ;

"Inasmuch as it tends to impoverish and subjugate Ireland, without giving wealth or strength to Britain ;

"Inasmuch as it tends to raise and perpetuate discontent and jealousies, to create new, and strengthen old discontentedness of interests in our concerns of trade, manufactures, revenue, and constitution ; and instead of increasing the connexion between the two kingdoms, may tend to their separation, to our consequent ruin, and to the destruction or dismemberment of the empire ;

"Inasmuch as it endangers, instead of promoting or securing the tranquillity of Ireland, as it degrades the national pride and character, debases its rank from a kingdom to that of a dependant province, yet leaves us every expense and mark of a kingdom but the great essential one of a Parliament."

And again,

"Inasmuch as it has been proposed and hitherto carried against the decided and expressed sense of the people, notwithstanding the improper means resorted to to prevent that sense being declared, and to misrepresent it when known."

And again,

"Inasmuch as it leaves to be determined, by the chance of drawing lots, the choice of thirty-two members to represent as many great cities and towns with a levity which tends to turn into ridicule the sacred and serious trust of a representative, and while it commits to one person the office which the constitution commits to two, of speaking the voice of the people and granting their money, it does not allow the electors to choose which of the two they will entrust with that power ;

"And inasmuch as means the most unconstitutional, influence the most undue, and bribes openly avowed, have been resorted to to carry it against the known sense of the Commons and people during the existence of martial law throughout the land ;

"We feel it our bounden duty to ourselves, our country, and our posterity, to lay this our most solemn protest and prayer before your Majesty, that you will be graciously pleased to extend your paternal protection to your faithful and loyal subjects, and to save them from the danger threatened by your Majesty's ministers in this their ruinous and destructive project, humbly declaring with the most cordial and warm sincerity, that we are actuated therein by an irresistible sense of duty, by

an unshaken loyalty to your Majesty, by a veneration for the British name, by an ardent attachment to the British nation, with whom we have so often declared we will stand or fall, and by a determination to preserve for ever the connexion between the two kingdoms on which the happiness, the power, and the strength of each irrevocably and unalterably depend."

I see, (continued Mr. W.,) that Mr. Saurin was one of the tellers upon that division—the numbers were, 77 to 135—and, therefore, he must be considered as a party to that protest. Mr. Toler, who was so peculiarly distinguished for his legal acquirements (loud laughter,) voted for the Union and obtained a peerage. Mr. Saurin continued a commoner till he died. Gentlemen, it has been observed by the Attorney General, but very wrongly---that the condition of Ireland at the time the Volunteers were established warranted them in the resolutions which they adopted, but that the state of the law now does not justify a similar line of conduct. His argument was, that Ireland then had a parliament perfectly independent, and that England obtained, by the enactment of 6th George the First, the power to treat her as a dependant country; and, therefore, the Volunteers were justified. But the argument fails. Lord Coke, in 4th Institutes, said that it was in the power of the English parliament to bind the people of Ireland, but not unless Ireland was expressly included by name in the act. This was, then, the state of the law in the time of the volunteers. That Ireland was bound by an English act, when named in it, therefore the Volunteers acted against the letter of the law, though they did not against its spirit. When we had a parliament here—which was deprived of its authority—if it were just to adopt resolutions condemnatory of the English act which deprived that parliament of its power, how much more reasonable is it to adopt resolutions in the spirit of those of the Volunteers, when we have lost that parliament, and all the benefits of a resident legislature. I find in looking again at the resolutions that an ancestor of my friend Mr. Tomb's attested by his own signature that it was illegal and against the spirit of the law to attempt to bind the people of Ireland by an English act of Parliament. The Attorney General has said that the act of Union was a great and final settlement; but that assertion destroys the very principle upon which the Union rests. If he says that an act of parliament contains a provision for its finality, then the Volunteers of '82 made no mistake. They found that by the 6th of George the First, the Parliament of England had presumed to bind the people of Ireland, and they said we must have that act abandoned---repealed---and they succeeded. I will next call your attention to the consideration of what Mr. O'Connell has asserted about the revival of the Irish parliament, and I will first, however, dispose of his proposition for the "Renewed action of the Irish Parliament." Mr. O'Connell in that extraordinary document sets forth the whole of the Irish population, and states his opinion, that household suffrage is the best. Why, gentlemen, that is the suffrage we have at present in Dublin. Every man who has a house worth ten pound possesses a vote, and there are very few houses in Dublin that are not worth 10l. The Duke of Richmond, who was examined by Mr. Erskine on the trial of Hardy, was of opinion that the whole system of the franchise was corrupt, and that every man who had not committed a crime ought to have a vote;



and that there ought to be annual parliaments, vote by ballot, &c., all which was very well for a Duke. And in his letter to Colonel Sharman he (the Duke of Richmond) states that he is of opinion that the two nations should have but one parliament, provided the sovereign of England should reside a reasonable time in this country, and hold her imperial parliament in it, which he said her Majesty could do with a scrape of her pen—and, gentlemen, I hope she may. It is a positive insult to the understanding of any man to say that such a state of things would not be positive benefit to the country, improve her trade, her manufactures and her resources. Even our own profession would be benefited by it; for the residence of her most gracious Majesty in this country would be no bar to her loyal subjects to go to law (laughter.) The Attorney General adopted the Socratic doctrine in his argument with us: he put questions to us. Now I am not to be held accountable for the doctrines propounded by others who have spoken before me. But it can be said, as was alleged, that it is revolutionary to state that every town possessing 10,000 inhabitants should have a representative? Why, that is but the principle of the reform bill. Mr. O'Connell also says that every man who marries shall have a vote. I think there can be no objection on that score—and that the conspiracy on that ground may be abandoned; and certainly such a question could not be submitted to a more favourable jury, for you are all married (laughter.) Has Mr. O'Connell said that her Majesty was to be pulled from her throne---the House of Peers to be abolished---and the House of Commons extinguished? No. What then has he done? He has been guilty of the monstrous proceeding of extending the royal prerogative? The Attorney General, the legal champion of the crown, charges it as a crime, against Mr. O'Connell that he said the Queen has a larger, wider, and more extended prerogative than her Majesty possesses. Where is the authority in which it is laid down that the man who propounded such a proposition is to be charged as a conspirator. What authority is there for saying that Mr. Duffy, Mr. Steele, or any one else, is to be charged with conspiracy, because when they heard such a proposition they did not say to the person propounding it cite us some authority; cite us your case. Suppose Mr. O'Connell, instead of saying that parliament should be reformed—that a parliament should be given to Ireland—said, Sir, I am of opinion that parliament is a humbug—a nuisance; that her Majesty has a perfect right to rule, independent of either house of parliament. Why, what would be the consequence? I cite a case in point. A celebrated writer in England wrote a book in which he said that the House of Commons might be dispensed with. That was voted to be a scandalous and seditious libel by the house, and the Attorney General of the day was directed to prosecute the writer. He was accordingly prosecuted, and the case is to be found in Peake's cases in the King's Bench. It is called the *King v. Reeves*. Lord Kenyon there laid it down that the power of free discussion was the right of every subject of this country—a right to the free exercise of which we were indebted, more than to any other claimed by Englishmen, for the enjoyment of all the blessings we possess; for the reformation, the revolution, and our emancipation from the tyranny of the Stuart's, &c., &c.; and that in a free country like this the productions of a political writer should

not be hardly dealt with. He directed the jury to read through the whole book, and then form their judgment on the entire work. That was his charge, and do you wonder that the people of England should be so much attached to the judicial system under which they live, when you hear laid down by the Lord Chief Justice of England a doctrine so constitutional, so favourable to freedom and the right of the subject as that doctrine. The jury in that case retired; they had the book before them, and though they decided that the book was improper, yet, nevertheless, they thought that he was not actuated by any bad intention; and Lord Kenyon said he approved of their verdict. That was the doctrine propounded from the bench, and the jury having looked with the eye of men of sense qualified their verdict by saying they deprecated what was said by the defendant, the mode in which he conducted his argument, but they found their verdict of not guilty, and the Lord Chief Justice said he approved of their decision. Therefore, if Mr. O'Connell said her Majesty may dispense with the House of Lords he would be safe according to the authority of that case. If he said the Queen might dispense with the House of Commons, he would be safe according to the authority of that case. But what has he said? That the Irish peerage might be restored to the position in which it once stood—that the House of Lords would be Protestant, and that the House of Commons ought to be restored. In England the right of free discussion is the right of Englishmen, and I put it to your good sense to say whether the arguments of the writer of that book, or Mr. O'Connell's argument is more consistent with the principles of the constitution under which we live? Gentlemen, the power and prerogative of the crown to issue writs seems to have been a very extensive power—at least, as it was formerly exercised. In the reign of Elizabeth, she, wishing to have a majority, sent the writs to only fifty boroughs and left out ten. There are very remarkable instances where the crown have withheld writs from places entitled to send representatives to parliament, as to numbers. Looking to the parliamentary history, we find the most elaborate discourse ever spoken. It was by Sir John Davies, the Attorney General to King James the First, and was to be found in Leland's History of Ireland. In that discourse you will see the right King James the First had for what he did do, to create forty boroughs in the north of Ireland in one day. It was questioned in that parliament whether he had a right to do so; the question was discussed, carried over to England, and it was decided in favour of his right, and those persons so elected, under his writs, sat in parliament to the period of the Union. The last instance of the kind was the issuing of a writ for the borough of Newark, and it was decided in the House of Commons by a very large majority that the Sovereign had a right to create the borough. Mr. O'Connell's argument was this, that the Sovereign has still the power to create boroughs in England. Chitty, in his work on the prerogatives of the crown, enters into that question, and says there was nothing to take away the prerogatives of the crown in that respect. Then, if it does exist, the Union is in the power of the Sovereign, and that learned writer says it is in the power of the crown to create boroughs as they did before.

Mr. Justice Perrin—What is the date of that work?

Mr. Whiteside—It was published in the year 1820; since the union.

Whether the argument be right or wrong, which is not the question before you, is a man to be branded as a conspirator, because without knowing whether Mr. O'Connell was right or wrong—and Mr. Duffy will pardon me, for I don't think he has read sufficiently on the subject; he adopted his opinions. I will show you by a passage from a speech made by Mr. O'Connell in the debate in the Corporation of Dublin, that he put this as an extreme case; that speech is in a pamphlet, most widely scattered, and it was a fair proceeding, for it scattered the opinions of my friend Mr. Butt, who made a most able, argumentative, and learned discourse against Mr. O'Connell in that debate.

Chief Justice—I don't think you can cite that.

Mr. Whiteside—Then, I can state the substance of it. Mr. O'Connell said, that as the prerogative of the crown in the issuing of writs was putting an extreme case, because he knew not any instance, where the people were unanimous, that parliament had ever refused to grant their legitimate request; and, therefore, he exhorted the corporation to petition—which they did—and the people of Ireland to petition; and this led to the mass of petitions that have been prepared. And I contend that all these things go to prove that his object was to make an impression on parliament. If he looked for the crown to exercise its prerogative, the meetings and the petitions would be useless, so that all the acts prove that he looked for relief from parliament, and not from the prerogative of the crown. There are two general considerations that I shall advert to on the subject matter of this case; that is, whether the general conduct pursued by the defendants showed they were governed by motives that actuate men engaged in a conspiracy, and whether the general conduct pursued by the government showed that the government believed they were engaged in a conspiracy. How did the defendants act? Everything they did, everything they wrote, everything they spoke was before the public; every morning their speeches appeared in the frigid *Saunders*, and at night in the fiery *Pilot*, and they sent up to the government proof of their guilt, and evidence for their conviction. They are spoken openly and in day light, those dark projects, those treasonable designs, these hidden contrivances; their rules are given to the public—they employed the printer of the crown to print them; and they declared their object to be the peaceable organisation of the people; to concentrate popular opinion, and carry out the objects they had in view, and that was a legitimate and proper object. What was the conduct of the government? Did that government show they believed that there existed in this country a conspiracy, beginning in March, and continuing up to October? If those publications were seditious, and proof of a conspiracy; if they were incentives to rebellion, and calculated to poison the public mind, and infect popular feeling in this country, for two whole years the court sat in which the Attorney General had the right from his high station, to do what he thought proper in the defence of the law and constitution on any of those publications that are now asserted to be extraordinary seditious, and why have they not been prosecuted by him? And I retort on him the argument he used, that if it were mischievous in those defendants, or any of them, to spread poison through the land, it is more mischievous in the champion of

the government, the sentinel of the state, not at once to come forward and stop the mischief when it might be stopped. Parliament sat until the month of August, and I call your attention to the discussion to which the Attorney General referred—the question put by Lord Jocelyn to the minister, and the evasive answer given by that minister. Gentlemen, the attention of the government was also drawn most forcibly to the condition of Ireland in *Parliament*. The ministry were united to *act* against the meetings in this country—they declined. The government had a large majority in the Commons; they might have legislated and saved the country from confusion or convulsion—they did not do so. They might have put down the meeting of the Repeal Association, as the Catholic Association was put down, by act of parliament. I call upon you to recollect, that up to the latter end of August that parliament sat, and nothing was more easy than for this ministry, commanding a majority of that house, to say, “We put down the Catholic Association by the statute law; we put down unlawful combination; we put down the Protestants of the North; and give us now only a short act of parliament to put down those who disturbed the public peace.” They allowed the parliament to separate and did nothing; the do-nothing policy appeared to be their rule of action. What were the people to believe? What did they believe? Why, that they had not transgressed the law; and that as the parliament did nothing, and the crown did nothing, they might persevere with peaceful agitation. Again, I say, to acquit the government, you must acquit my client. Gentlemen, the parliament separates; the Irish government breaks up for the Summer; his Excellency, of whom I speak with profound respect, retires to England for recreation, or for the cultivation of those elegant tastes for which he is distinguished; the Lord Chancellor betakes himself to the banks of the Thames, to the charms of Boyle Farm, to muse on law, or think of Pope. Our noble Secretary seeks some quiet dell, to loose, if possible, his unclassic recollections of *Irish politics*. The Attorney General escaped from the bustle of St. Stephen’s, to the tranquillity of home; and Mr. Solicitor, active as ever, was up to indulge in most pleasing anticipations of the future, his cheering contemplations upon his present desirable prospects. The Prime Minister went to Drayton; her Majesty to sea; Ireland was left in the most comfortable manner possible to go head-formost to destruction. A happier arrangement of things could not be made; property and life were consigned to the mercy of the conspirators; and the progress of the conspiracy advanced unheeded and unchecked. The Clontarf meeting is announced, and then, how shall I describe it? A bluish cloud hung on the declivities of the mountains; the political horizon is overcast indeed; a dangerous activity, on the part of the government, succeeds a dangerous silence; couriers fly to the Irish officials; the ears of the crown lawyers prick up—here is sedition; but where is his Excellency?—here is illegality; where is the Lord Chancellor?—here is matter of political expediency; where is the noble Secretary; what welcome news they brought who summoned English functionaries to return to the seat of their Irish happiness; meanwhile, time passed, no Attorney was ardent; no Solicitor apprehensive, they longed for the arrivals; they were, I believe, seen together on the sea shore,

straining their eyes towards the coast of England, and, in the agony of their expectation, exclaiming---

"Ye gods, annihilate both time and space,  
And make two lawyers happy."

They come—they come—the Privy Council is assembled. I cannot tell you, gentlemen, what passed, or what was said, at the first meeting of that august body—the Robertson or Gibbon of future times may tell. I'll tell you what they do; they do nothing (laughter). The do-nothing policy prevailed; and on Friday they separated, having done nothing, with the happy consciousness that they had done their duty (laughter). Refreshed by sleep, they re-assembled on Saturday. They considered—they composed—they publish, and the proclamation is issued at three o'clock, forbidding the meeting, for which meeting there were thousands on the march, almost at that very moment, to attend next morning. The Commander-in-Chief receives his order, and prepares for battle---the cannon is loaded---the bayonet is fixed---the cavalry mount, and forth marches our victorious army in all "the pride and pomp, and circumstance" of glorious war. It was a glorious sight to see (laughter). The advanced guard by a brisk movement pushed on and seized Aldborough House (a laugh). The light infantry, protected by cavalry, rush forward—the army are placed in position---the Pidgeon House bristled with cannon and looked awful, and the police skirmished, and the Commander-in-Chief---what did he do? It is stated that Sir Edward Blakeney, at one o'clock, rode down to inspect the troops---approved of what was done---rode home and dined! and if he does not get a peerage for the happy deeds he did that day, justice will not be done to Ireland (laughter). Such a triumph was never achieved since the renowned days of Irish history, when Brian Boroihme buckled on his mighty sword and snote the Danes (laughter). To be serious, was that a wise, consistent judicious course of policy to make the law understood, respected, and obeyed? Was it not the last policy that should be resorted to for the purpose of governing so peculiar a people as the Irish? The meeting at Donnybrook was not forbidden—the Clontarf meeting was to be put down by the bayonet. Will constitutional knowledge be much edified by the body of that most interesting document—that learned and great performance, the proclamation, which it fulminated at the very last moment, when the meeting is on the point of being held, although other meetings of the same character and nature have been endured by that same government? Do the Irish laws vary with season, and is that law in June that is not law in October? For the Attorney General said the meeting at Donnybrook was the type of all the other meetings that were held; and I put it to your own unbiassed nature if it were---if the government saw the men that went to that meeting passing by the Castle Gate, and knew it was held, and were aware of it---they read the speeches---they had their reporters there, and knew everything that passed, why not then put down those meetings? Heated, inflamed, they see an enthusiastic people in pursuit of a darling object. Which are the most blameable, the people for holding those meetings that they did not see denounced or put down by the law, or the ministry that stood by and witnessed the folly and knew of the

madness that allowed the mischief to prevail and spread over the country until it was to burst forth like a fiery volcano, and sweep the country in a torrent of devastation? and then they call upon you to convict my client. If you convict my client you convict the government. If you desire to acquit the government you will acquit my client. These men are chosen by her Majesty to govern this great empire—the peace of the country is entrusted to their hands—your lives and property, it is asserted are in jeopardy; that a black conspiracy has existed in this country since the month of March; that they knew it, and were aware of every act done in pursuance of that conspiracy; they did no act to put it down; they allowed the seditious speeches to proceed, and men to harangue the people, they read them, they noted them, but they took no proceedings; they asked no aid from parliament to stop them, and now they want to get themselves clear of all possible blame, not meaning to say that the prosecution is not a *bona fide* prosecution, but at the last moment they try these men as guilty of an illegal act. In the ordinary course of human affairs, the most powerful and conclusive admissions will be drawn from the conduct of parties, but in cases of political conspiracy between the crown and the subject, it is for you to take care, and great care, that it should not be in the power of the government to-day to say a certain thing by their conduct, as significant as their acts and declarations is lawful, and not to be censured, and then to allow them to draw together all the uncautious language, all the violence that several public men have fallen into for a period of ten months, and put them all in an indictment—to overload the memory, and confuse the understanding, by the mass of paper that has been put upon the table; and to tell twelve honest men—who are governed by no other desire than to do justice—to spell out of the whole a black conspiracy—to subvert the monarchy—to uproot the constitution that you have sworn to protect—and to take away the prerogative of the crown. I take the liberty to say this—that it is impossible for you to believe, nor do I believe that the learned gentlemen I see before me ever thought there was a conspiracy. I don't believe that they thought it amounted to a conspiracy. They did not, during all that time, prosecute for a conspiracy. Was the understanding of the Attorney General less acute?—was the Solicitor General less anxious?—were they reluctant to tell the gentlemen to discharge their duty. No; they are honourable gentlemen both; they do credit to the government that selected them for their important functions; and there are not two men in the hall that would more honestly and frankly express any opinion they were called upon to give. They did not any one of those things, and yet they now come and demand from you a verdict against my client? Contrasting his conduct with that of the government, where is the evidence of conspiracy? The learned Counsel then remarked—having thus viewed the case generally, he would now apply himself to the case of his client, Mr. Duffy. Mr. Duffy is the proprietor of a weekly journal, and is prosecuted here for no private calumny; for no slander on private virtue, integrity, or honour. He has not invaded the peace of families, or sought to gain a base notoriety by blackening the reputation of those from whom he differed. He is

accused here to-day for the terms in which he has advocated a great public question ; the style in which he has treated a vast political subject. That he had a right to advocate and discuss his own view of the Repeal of the Union, cannot be denied ; he might do so ardently, boldly, vehemently. Reflect on the position in which such a writer stands. He is, as the law stands, encompassed with quite enough of difficulty and of danger ; forced from the necessity of his profession, to engage from day to day in the discussion of angry topics, on which public feeling is inflamed ; forced to report and notice what is passing before his eyes, else his paper would not be a newspaper ; and obliged to comment upon what is passing, promptly, and without reserve. If he is deficient in spirit, the public will not read him. If extravagant, the Attorney General threatens ; and sometimes the doors of the Queen's Bench open for his admission, whence he cannot retire as quietly and as comfortably as he might wish. Further, he is responsible for the acts of all who write a political squib in a spicy article for his paper ; and for his own almost involuntary acts. And if a poetic youth, within the walls of a College, sends a clever song to the compositor, to fill a corner, even the poetry, however harmonious, the Attorney General intermixes with the horrible prose of an indictment ; nay, more, the proprietor is liable, though absent, for the sins of others, though he has committed none himself. Gentlemen, this situation is difficult and critical enough without adding to its dangers. The accusation against Mr. Duffy is, that he has embarked in the wicked conspiracy spread on the face of this indictment, (sum it up,) and as you see there is no proof whatever of a common agreement to conspire, you are to collect by an inference of reason, not by guess or conjecture, that Mr. Duffy has made himself, by the acts he has done, a conspirator, a member of the precise conspiracy charged by this indictment. Whether your understandings may not be obscured by the huge mass of matter given in evidence against the other parties in this case, the danger and the injustice of this prosecution, that the acts and the declamations of one man are admitted to prove the guilt of another, at least make out the existence of a common object, and although you will be told that each person is only to be affected by the share he has taken in the same, yet, I greatly fear you will not be able, at least not without some attention to separate, the case of Mr. Duffy, from the case of others with which it has been most unfairly connected. I deny there is any general conspiracy, and have endeavoured to prove there was none. If there was, secondly I deny Mr. Duffy to have been a party to any such conspiracy. I say his acts establish nothing criminal against him. He is a repealer ; that does not entitle this court to deprive him of his liberty or fortune. Mr. O'Connell is also a repealer, that fact does not prove that he and Mr. Duffy have conspired to effect repeal in the manner charged. Well then what is it Mr. Duffy has done ? As to the monster meetings, he attended none. His publication is to be divided into two heads—the reports of proceedings published by him—the leading articles or original matter printed by him. As to the first, a few moments reflection would be enough to convince you that it would be the very acme of injustice, to find Mr. Duffy guilty of conspiracy, merely, because reports of proceedings which have been given

in all the daily papers found their way into his weekly journal. Could a weekly journal of any politics stand one hour, if it omitted all notice of the stirring events of the week. Is he more guilty of *reporting* such meetings than the Mail or Packet; or Saunders, or Warder; the difference is merely this—these journals report the meetings and abuse them—Mr. Duffy reported and praised them. What is a proprietor of a weekly paper to publish, but the news of the week? And what is the news of the week in Ireland were repeal meetings have been held, but the doings at these meetings? And therefore, to make Mr. Duffy a criminal for his narrative of weekly passing and extraordinary events, would be no less absurd than cruel. I cannot believe, upon the ground of merely reporting or publishing narratives of events, any person in that box would find a verdict of guilty against my client. The Attorney General himself seemed to admit this, because he said, "Mr. Duffy used his paper not to circulate news, but as an engine of the association to forward the conspiracy." Therefore I infer the Attorney General himself admitted, the mere narrating or publishing the news of the day, would not make the traversers guilty of this crime. It would be better, surely, to tell what really happens than ancient falsehood. Upon the subject of the reports, as reports, could any twelve impartial men decide that the traverser, from the bare fact of copying into his journal what had been printed in twenty papers before, was a conspirator with the speaker to upset the government of the country? What overt act is this of conspiracy? Did Mr. Duffy agree that Mr. O'Connell should so speak as he has spoken? According to the definition relied on by the Counsel for the Crown, if one man does one part of an act, and another person the remaining portion, there is proof of conspiracy—then does that definition apply to this case? The Attorney General proposes to establish the crime of conspiracy, by picking out three or four articles, published at different periods, and suggested by passing events, culled from the publications in a weekly newspaper, extending over a period of nine months, and read to the court as being calculated to prejudice the minds of the people against the government of England; and, observe, that all the intervening quotations which might qualify or explain them, are passed over, although the learned gentleman ferretted out everything else that could serve his purposes, whether in large type or in small. The song on which they rely is entitled "The Memory of the Dead," and was published in the *Nation* on the 1st of April, 1843. A very proper day for the publication of that which is now selected by the Crown as evidence of a conspiracy. And suppose it was in the words of the indictment, "an incentive to rebellion," why was not the publisher of that seditious song at once brought into court and dealt with for it? But nothing is done until it is forgotten, and at the eve of eight months a song printed in the *Nation* is stuffed into the indictment. But what is most unaccountable with respect to its appearance there is, that there is no averment whatever respecting that song, except that Mr. Duffy published it. It does not tell you what it relates to. What '98 does it refer to? or how does he connect it with the subject matter of this conspiracy? There is not a word of prefatory matter to explain what it refers to. I want to know by what right you are called to pre-



sume, in a criminal case, that it refers to 1798 no more than to 1698, or 1598, or 1498. The expression 1798, does not occur in the song from the beginning to the end. Why, then, I again ask, is a criminal intent to be fastened upon any man without even the form of an averment to give an application to what he writes or publishes? Are you to visit this act of Mr. Duffy's on Mr. O'Connell, or to presume that it was published in pursuance of a common plan between the traversers? That song was written by some clever young man, and I took the liberty of reading to you another song published in the same paper on the same day, and which it was certainly as agreeable to hear as many of Mr. Attorney General's statements. These very sweet agreeable verses were read from the very same paper. Are you to be asked to believe that Mr. O'Connell and Mr. Steele knew beforehand that some young men, perhaps within the walls of Trinity College, animated with that poetic fire which illumined his imaginative soul, would write that song and send it to the composition of the *Nation* to fill up a corner in his paper? Are you to believe that all this was done in pursuance of a common object, and furtherance of a conspiracy? Is it come to this, that the government of England is not safe; that the constitution of England is in danger, because some young men, gifted as the writer of that song unquestionably was, adverted, in poetic language, to the mistaken views of men who lived in former days, or will any twelve honest, or intelligent, or experienced men, be asked to find a verdict on such grounds? Gentlemen, it is not fair—it is not chivalrous—it is not generous thus to take a young man to task for the ardent and warm-hearted effusions of his early youth. The writer whom, of all others, I most admire—the writer who, in my opinion, has, by his writings, done more than any other author to uphold our social system—to mend the morals and improve the mind—Robert Southey himself commenced his career by writing that memorable work, *Wat Tyler*, but the tone and temper of his mind were changed when a sounder judgment and more extensive knowledge of the world taught him to view men and manners by the calm light of cool, dispassionate reason. Alas, Mr. Solicitor, am I to be told that it is worthy of a wise and enlightened government to bear down with the fell current of a state prosecution upon the writer of that enthusiastic little song, written with the ardour of thoughtless youth, and that, too, after the lapse of nine months from the time of its composition? Gentlemen, in the disastrous and criminal movement of '98, amongst the most prominent of the leaders were two ill-fated members of my own profession—Henry and John Shears. In a review which recently appeared in a respectable literary publication, the *Athenæum*, of a memoir of the "Life and Writings of the late William Taylor, of Norwich," I find this remarkable fact noticed, that the first letter of a long correspondence between Taylor and Southey transmits an elegy on the fate of those unhappy young men. I will read for you an extract from the review in the *Athenæum*—"In 1798 William Taylor became acquainted with Robert Southey, then rising into fame, and a correspondence ensued between them which extended over many years. It is singular that Taylor's first letter should transmit an elegy on the fate of Henry and John Shears, who had just been executed for high treason in Dublin; Taylor celebrates them as martyred patriots.

The passage in which their mother is introduced, bidding them farewell in the dungeon, will give a general notion of the spirit which pervades the whole:—

Sons, 'twas for this I bore you—die as men  
 To whom your father's country and your offspring  
     Deserved to owe the good  
     Ye struggled to obtain.  
 Thy wife, son, cannot speak—she loves thy children;  
 And in her poverty shall thank her God,  
     That thou hast boldly dared  
     Devote them for thy country,  
 Thou needest, John, thy mother's counsel not.  
 If the few weeks that, ere we meet, roll by,  
     Worthy of thee I spend,  
     Well pleased mine eyes shall close.

And, gentlemen, am I to be told that the man who penned that touching verse is to be branded for evermore as a conspirator, because he commiserated the unhappy end of any ardent and misguided men who loved their country “not too wisely, but too well?” No, gentlemen, such a proceeding would be scandalous and disgraceful; and equally unworthy is it of the great and distinguished government which prosecutes in the present instance, to direct the thunders of their indignation against the enthusiastic young author of the “Memory of the Dead.” Let the Solicitor General tell how the government of England punished Mr. Moore for poems not a whit more indicative of a conspiracy (if conspiracy indeed there be) than the stanzas which have been read for you. Let him tell you how Moore was punished for writing such lines as these in the “Lamentation of Auhgrim” :—

Could the chain for an instant be riven  
     Which Tyranny flung round us then,  
 Oh! 'tis not in man or in heaven  
     To let Tyranny bind it again.  
 But 'tis past; and though blazoned in story  
     The name of our victor may be,  
 Accursed is the march of the glory  
     Which tread's o'er the hearts of the free.

He will tell you how the bard was punished for penning the song of “Rourke, Prince of Breffny,” and of inserting in it such lines as these :—

Already the curse is upon her,  
     And strangers her valleys profane :  
 They come to divide---to dishonour;  
     And tyrants they long will remain.  
 But onward !---the green banner rearing,  
     Go flesh every sword to the hilt:  
 On our side is Virtue and Erin;  
     On theirs is the Saxon and Guilt.

Yes, gentlemen, the author of the "Adventures of an Irish Gentleman in Search of a Religion," and of the "Memoirs of Lord Edward Fitzgerald," was punished. But how was he punished? He was punished by a pension from the English government—yes, Moore was punished with a pension for his *sedition*; and you, gentlemen of the jury, are now solicited to bring a verdict of "guilty" against the writer of this song, and to declare your conviction that the emanation of a mind, young, ardent, poetical, and imaginative, though mistaken, was written in furtherance of a common plan and design of the most infamous nature! However ardent the youth of Ireland may be, it should never be forgotten of them that they never forgot their loyalty to their sovereign, even when, in 1715 and 1745, the best blood of England and of Scotland bedewed the scaffold, in consequence of the mad, and well-nigh successful attempt to dislodge the present royal family from the throne of these countries, the Irish were faithful even to the death. Are not the free subjects of a free state to be permitted to raise their voices in constitutional protestations and remonstrance, when they think that their interests are endangered or injured? Scott, the most cautious of writers, was, once called upon to decide between his attachment to his party and his love of Scotland. The British ministry declared their intention to introduce—regardless of the feelings of the Scottish people, who considered that their interests were vitally concerned—a bill in reference to the Joint Stock Banks of Scotland. The Scotch thought that they would be injured by the contemplated bill; and Sir Walter Scott, fired with indignation at the idea that the act should be introduced without consulting the wishes and feelings of his countrymen, wrote under the signature of "Malachi Malgagrouther" a series of letters, which excited such a flame of indignation in the country, from north to south, from east to west, that the minister of the crown was obliged to fly away with his obnoxious bill under his arm, just as the Attorney General would be forced to fly off with his monster indictment on his shoulder, for it would not fit under any man's arm (laughter). But hear how Sir Walter expressed his indignation. (The learned counsel read an extract from page 320 of "Malachi Malgagrouther's" Letters.) The British Minister failed, for the Scotch said, "we must get our Joint Stock Banks"—aye, and they did succeed in getting them; and are we not a country as good as Scotland, that succeeded in wringing from the British minister their rights upon a great mercantile question. Was that to be done in a cold and servile manner? Do you think Scott did it in that cold and mawkish manner, and said, as we lawyers say, "ah! I respectfully submit?" (laughter). No, he had to excite a national spirit (laughter)—and, therefore, he went boldly about the task, and Sir Walter Scott succeeded in making his country—which contained about one quarter of the number of inhabitants that Ireland did—he succeeded, I say, in making her happy, respectable, and great, while we remain a poor, pitiful, pelted province. I am not asked to say this. I hope that the people of Ireland will combine in the one cause, and that is the cause of their common country, for the common good of that country, for the good of this ancient kingdom, that she may once again flourish in the world's history. Gentlemen, I now come to the shuffling of the indictment, and what do you think the Attorney General relies on a part of it for? Why,

a letter, signed "Delcassian" in the *Nation* newspaper (great laughter). Delcassian—treason of course (laughter). This letter has reference to one of the lakes in Ireland, called "Lake Belvidere;" it says "we don't want lakes at all, let us have lough and then it will look like Irish—we want no Italian or German names at all, let us have Irish names; and it further stated that Roderick, one of the last Kings of Ireland, died on an island in that lake;" that's conspiracy—but I cannot see any thing very wrong in that, and I venture to assert that if every reader of the *Nation* in existence was put on the table, and asked, by virtue of your oath, do you remember the letter of the Delcassian, he would boldly say, on my oath I don't remember a word about it (a laugh); and that is a part of the conspiracy charged in the indictment, and sought to be palmed on you as treason, along with Ollam Fodhla, and the other old gentlemen who lived in his days (great laughter). That is one part of the charge; and now I come to that which they rely on for a conviction! The subject is from the same paper, the *Nation*, of the 29th of April. This is headed, "Something is Coming—aye, for good or ill, something is coming." The learned gentleman then read the article. He commented generally on it as he proceeded, and said the article was calculated to conciliate all parties, for it should be remembered that there were political storms as well as physical hurricanes. It said that coolness was the only thing. Anything, I ask, inflammatory in advising the people to be cool and steady? I can't see there is, although the Attorney General wishes you to believe there is (laughter). The people are sober now; and I respectfully submit there is nothing of conspiracy in that (great laughter). Let them be kind and conciliating to the Protestants—neither can I see anything in that; but every person don't view things in the same light as the Attorney General does (a laugh). I don't think it is wrong in a writer to endeavour to conciliate Protestants, because he well knew there were 800,000 good Protestants in the north of Ireland, who were strong-minded men, who reasoned well; and who, once they took up a subject, and were convinced of the utility of it, they would not cease until their object was accomplished. The writer knew the difficulty of getting these men out, and therefore he wanted to conciliate them. And I don't see anything wrong in that, for their assistance would be valuable to the repeal cause; and, let me ask, what other mode could be adopted? It was recommended by Mr. O'Connell—it was recommended by Sir Walter Scott, and with effect; and this was the ground the crown went on for a conviction, because the writer in the *Nation* endeavoured to conciliate his Protestant brethren. They (the *Nation*) say they differ from Mr. O'Connell; and, I ask you, is that a sign of conspiracy (laughter)? I say the newspapers do not speak the conclusions of the association, and, therefore, there is no conspiracy between them, and you had that from Jackson, who proved it on this table, and yet the Attorney General wants to put that ostensible meaning on it, but you are not to give it a meaning not warranted by the facts. The next article they rely on is the article headed "Our Nationality," a thing that will be always objected to by our brethren at the other side of the water, or, at least, by the ministry, and the only thing they set out in that is the word "clutched" (laughter). It is rather curious that Mr. Barrett used that word also in a speech made

by him. "Oh," says Mr. Barrett, "he will think like the old woman's cow," and, gentlemen, Mr. Attorney General put the old woman's cow into the indictment (great laughter). We will think, says he, like that until we clutch, what ———? (laughter). It was not the Queen, or the Chief Justice, or the Prime Minister, or the Attorney General they were about clutching, but their nationality—their independence (laughter). I ask you is this to be brought up in judgment against the defendant? I ask any eno man of you here has he not read worse articles in the English papers calculated to irritate the people of England, and inflame their minds—none of which were prosecuted, but passed by and were forgotten. The advertisement about the Clontarf meeting was not what it should be, but was it not when observed by Mr. O'Connell at once withdrawn. I have shown you that the true object of that document in the *Nation* was, that there should be a grand procession to Clontarf. At the request of some Protestant clergymen it is given up, as it was the Sabbath Day, and the time of divine service, and even the streets were avoided in which places of worship were. I rely on this to show that no offence was offered; but as they had proceeded in a procession to Donnybrook, they considered that they might do so to Clontarf. I admit that strong language has been used, and I regret it. The term "Saxon" has been applied to Englishmen. Mr O'Connell has entirely renounced it at the request of an English gentleman—I believe he borrowed it from Moore. Moore was wrong to have used it. Yet, probably, when these trials are over, if I called upon the learned gentleman (pointing to the Solicitor General) I would find "Moore's Melodies," and "The Irish Gentleman in search of a Religion" upon his table—yet, perhaps, if he knew who knocked at the door he would, like the lady in the play, thrust one into a drawer, put the other under the sofa, and places "The Whole Duty of Man" on the table (loud laughter). As to the language made use of in many of the publications given in evidence in reference to the English people; it is impossible for me to defend expressions, the use of which, my heart condemns. I believe the English to be a great, virtuous, free, magnanimous people; and the world has seen the proofs of their wealth and spirit. It is, however, to be regretted, that the practical good sense which pre-eminently marks their character did not induce them in past times to look narrowly into the condition of this country, and to do that justice to Ireland which the governments of England, and the monopolists, by whom they were surrounded and controlled, refused to do. Perhaps something may be ascribed to prejudice; more to the narrow views entertained on questions of political science, and of trade and commerce, by most men at the period referred to; and, something more, to the reprehensible ignorance of the circumstances and feelings of the Irish people, which prevailed even amongst educated Englishmen, till a later and happier era. These, combined with other causes, spoiled the happiness, and checked the prosperity of Ireland; but that Englishmen take delight in cruelty or injustice, would not be believed in the most barbarous climes, and ought not to be believed, nor to be asserted here. Gentlemen, respecting the dreadful scenes which, within the memory of living men, and the former scenes, more dreadful still, recorded in the page of history, which have been enacted in Ireland, and adverted to in

some of the speeches and publications in evidence before the court. I should rather than revive the recollection of their horrors exclaim, in the words of Lord Coke---“ Let oblivion bury them, or silence cover them; the moralist weeps, the patriot trembles for the liberty of his country; the philanthropist despairs of the improvement of his species, while they contemplate such terrible passages in the history of mankind.” To bring these shocking events before the public eye, can answer but one good purpose, to hold out to us, who live in better days, a warning to shun the madness and crimes of our forefathers, and a lesson to repress the evil passions which led to their perpetration. To all generations, such awful transactions hold out a solemn admonition of the errors committed by the ruling powers in times past, to the end that, similar errors might for the time to come, and remedies if possible discovered for the miserable consequences of misgovernment and neglect. The last document to which I shall refer is, “ The morality of War,” which the Attorney General has dwelt upon so eloquently, and translated with not a little freedom into “ The morality of Rebellion.” It seems that from the first moment it met his eye it startled his legal mind. But if it was the dreadful article he appears to have believed it to be, it astonishes me that he did not at once run off with it to the government, and exclaim, “ I will forthwith file an information in the Queen’s Bench against the author.” I request your attention to it. It states that a communication was received through Mr. Haughton from a Mr. Ebenezer Shackleton expostulating for having the words Benburb, Clontarf, &c., upon the repeal card. Now, gentlemen, do you think that the traversers combined together, that Mr. Ebenezer Shackleton should write that letter? Quakers, gentlemen, are a class of men who proclaim a dislike of war, but are very anxious to live under the benefits derived from it. I remember the story of a Quaker, which I will tell you. He was on board a ship which was attacked by pirates---and boarded---one of them came rather closely to the man of peace---and he seized him round the body, exclaiming very gently, “ My principles will not allow me to shoot or cut thee down---but I see no reason why I should not remove thee from my presence,” and he peaceably flung him overboard. In my youth I was called upon by a Quaker to second a resolution at a meeting of the Friends of Peace, and I could not repress my laughter, when he produced at the meeting an immense roll of parchment, which he said contained the names of every one who had fallen in battle from the days of Alexander to the battle of Navarino. How is it, gentlemen, that because Mr. Ebenezer Shackleton, through Mr. Haughton, writes this letter to the *Nation*, that Mr. O’Connell and Mr. Steel should suffer for it? Mr. Whiteside then read the following extract:---“ We feel no wish to encourage the occasions of war; but, whenever the occasion comes, here or elsewhere, many sagacious and informed souls, bold hearts, and strong arms, will be found to plan, lead, and fight. May the examples of Miltiades and Washington never want imitators when there are tyrants to invade, freemen to defend, or slaves to struggle for liberty.” This is the article, gentlemen, that the Attorney General has brought you to pronounce a verdict upon. He defended that sentiment; it was noble, worthy a generous, enthusiastic nature. Has the time arrived when the ardent mind of youth may no longer dwell on the virtues of a great hero

of antiquity, who saved his country—or the greater hero of modern times, whose illustrious life is an example, useful for liberty, and civilization for ever. He would not compare Washington with the vulgar tyrants who have insulted or enslaved the world, with the insatiable ambition of Napoleon, or the deep hypocrisy, and black treachery of Cromwell—the simple grandeur of his nature obscures the splendour of antiquity, and our minds are filled with admiration for his moral greatness and transcendent virtue. But that he lived under a diviner dispensation, we might have supposed his felicity hereafter to have been that ascribed by the poet to Cato—being surrounded by the spirits of departed virtue, and giving laws to the assembled just. And even now, it may not be presumptuous to believe it may be a portion of his unspeakable felicity to behold, from his habitation in the skies, the results of his illustrious labours here on earth. America has been frequently referred to in the papers read to the jury, and the reference dwelt on the prejudice of the traversers. England has no reason to fear comparison with America or her institutions. I prefer the system under which we live; but I am shocked, in contemplating the absurd caricatures of America drawn by the popular writers of the day, who deprave the public taste, and mock its judgment. Considering what America is, and what she was, I am tempted to exclaim with the Roman historian,—“*Civitas incredible memoratu est, adepta libertati, quantum brevi cesserit.*” A political writer may corrupt the public taste, deprave the morals of society, and lavish praises on the character of the Eighth Henry, the profligate Charles, or the bigot James, and may hold out as examples of virtue, a Domitian, or a Nero, and he is safe. The Attorney General will never prosecute such offences against good taste or truth; but if the same writer ventures to celebrate the benefactors of mankind, the Attorney General will prosecute the author as guilty of sedition against the state. The whole case was now before you, and was emphatically for your decision. You have seen the many instances where the crime of conspiracy was attempted to be fastened on Englishmen, in which English juries have refused to convict. In that terrible book, containing the state trials of England, where the real history of that country is written, there are many instances of truth stifled; justice scoffed, and innocence struck down. On the other hand, there are memorable examples of victims rescued from oppression, by the honesty and courage of British juries. Hardy, who discussed the great question of parliamentary reform, thus was saved; thus was rescued Horne Tooke; with their conviction, freedom of discussion might have perished. At an earlier period still, in the days of the Second James, when the seven bishops were accused of conspiracy, for asserting the rights of Englishmen; a jury delivered a verdict of acquittal, and the shouts of joy with which it was received proclaimed your freedom. Even in the days of Cromwell, after he had waded through slaughter to a throne, and under the sacred names of liberty and religion trampled upon both, the tyrant found the virtue of a jury to be beyond his power. The forms of justice he dared not abolish while an Englishman lived, and we have it upon record that, when in the plenitude of his power, he prosecuted for a libel upon himself; there were twelve honest men to be found who had the courage to pronounce a verdict of not guilty. Thus proving that, the unconquerable love of liberty, still survived in the hearts of Englishmen. I quote the words

of a patriot lawyer, who, in reference to that immortal precedent exclaimed---“When all seemed lost, the unconquerable spirit of English liberty survived in the hearts of English jurors.” I will say that the true object of this unprecedented prosecution is to stifle the discussion of a great public question. Viewed in this light, all other considerations sink into insignificance; its importance becomes vast, indeed. A nation's rights are involved in the issue—a nation's liberties are at stake—that won—what preserves the precious privileges you possess? The exercise of the right of political discussion—free, untrammelled, bold. The laws which wisdom framed---the institutions struck out by patriotism, learning, or genius---can they preserve the springs of freedom fresh and pure? No; destroy the right of free discussion, and you dry up the sources of freedom. By the same means by which your liberties were won, can they be increased or defended. Quarrel not with the partial evils free discussion creates, nor seek to contract the enjoyment of that greatest privilege within the narrow limits timid men prescribe. With the passing mischiefs of its extravagance, contrast the prodigious blessings it has heaped on man. Free discussion aroused the human mind from the torpor of ages, taught it to think, and shook the thrones of ignorance and darkness. Free discussion gave to Europe the Reformation, which I have been taught to believe the mightiest event in the history of the human race---illuminated the world with the radiant light of spiritual truth. May it shine with steady and increasing splendour! Free discussion gave to England the revolution, abolished tyranny, swept away the monstrous abuses it rears, and established the liberties under which we live. Free discussion, since that glorious epoch, has not only preserved, but purified our constitution, reformed our laws, reduced our punishments, and extended its wholesome influence to every portion of our political system. The spirit of inquiry it creates has revealed the secrets of nature---explained the wonders of creation, teaching the knowledge of the stupendous works of God. Arts, sciences, civilisation, freedom, pure religion, are its noble realities. Would you undo the labours of science, extinguish literature, stop the efforts of genius, restore ignorance, bigotry, barbarism, then put down free discussion, and you have accomplished all. Savage conquerors, in the blindness of their ignorance, have scattered and destroyed the intellectual treasures of a great antiquity. Those who made war on the sacred right of free discussion, without their ignorance, imitate their fury. They may check the expression of some thought, which might, if uttered, redeem the liberties or increase the happiness of man. The insidious assailants of this great prerogative of intellectual beings, by the cover under which they advance, conceal the character of their assault upon the liberties of the human race. They seem to admit the liberty to discuss---blame only its extravagance, pronounce hallow praises on the value of freedom of speech, and straightway begin a prosecution to cripple or destroy it. The open despot avows his object is to oppress or enslave, resistance is certain to encounter his tyranny, and perhaps subvert it. Not so the artful assailant of a nation's rights; he declares friendship while he wages war, and professes affection for the thing which he hates. State prosecutions, if you believe them, are ever the fastest friends of freedom.



They tell you peace is disturbed, order broken, by the excesses of turbulent and seditious demagogues. No doubt there might be a seeming peace, a deathlike stillness, by repressing the feelings and passions of men. So in the fairest portions of Europe this day, there is peace, and order, and submission, under paternal despotism, ecclesiastical and civil. That peace springs from terror, that submission from ignorance, that silence from despair. Who dares discuss, when discussion and by discussion tyranny must perish? Compare the stillness of despotism with healthful animation, the natural warmth, the bold language, the proud bearing which springs from freedom and the consciousness of its possession. Which will you prefer? Insult not the dignity of manhood by supposing that contentment of the heart can exist under despotism. There may be degrees in its severity, and so, degrees in the sufferings of its victims. Terrible the dangers which lurk beneath the calm surface of despotic power. The movements of the oppressed will, at times, disturb their tyrant's tranquillity, and warn him their day of vengeance or of triumph may be nigh. But in these happy countries the very safety of the state consists in freedom of discussion. Partial evils in all systems of political governments there must be; but there worst effects are obviated when their cause is sought for, discovered, considered, discussed. Milton has taught a great political truth, in language as instructive as his sublimest verse:---"For this is not the liberty which we can hope, that no grievances ever should arise in the commonwealth---that let no man in this world expect, but when complaints are freely heard, deeply considered and speedily reformed---then is the utmost bound of civil liberty obtained that wise men look for." Suffer the complaints of the Irish people to be freely heard. You want the power to have them speedily reformed. Their case to-day may be yours to-morrow. Preserve the right of free discussion as you would cling to life. Combat error with argument---misrepresentation by fact---falsehood with truth.---"For who knows not," saith the same great writer, "that truth is strong---next to the Almighty. One needs no policies nor stratagems to make her victorious; these are the shifts error uses against her power." If this demand for a native parliament rest on a delusion, dispel that delusion by the omnipotence of truth. Why do you love, why do other nations honour England? Are you---are they dazzled by her naval or military glories, the splendour of her literature, her sublime discoveries in science, her boundless wealth, her almost incredible labours in every work of art and skill? No; you love her---you cling to England because she has been for ages past the seat of free discussion, and, therefore, the home of rational freedom, and the hope of oppressed men throughout the world. Under the laws of England it is our happiness to live. They breathe the spirit of liberty and reason. Emulate this day the great virtues of Englishmen---their love of fairness---their immovable independence, and the sense of justice rooted in their nature---these are the virtues which qualify jurors to decide the rights of their fellow-men. Deserted by these, of what avail is the tribunal of a jury? It is worthless as the human body when the living soul has fled. Prove to the accused, from whom, perchance, you widely differ in opinion---whose liberties and fortunes are in your hands; that you are there not to persecute, but to save. Believe me, you will not secure the true interests of England by leaning too

severely on your countrymen. They say to their English brethren, and with truth : We have been at your side whenever danger was to be faced or honour won. The scorching sun of the east and the pestilence of the west, we have endured to spread your commerce ; to extend your empire ; to uphold your glory. The bones of our countrymen whitened the fields of Portugal, of Spain, of France. Fighting your battles they fell ; in a nobler cause they could not. We have helped to gather your imperishable laurels. We have helped to win your immortal triumphs. Now, in time of peace, we ask you to restore that parliament you planted here with your laws and language, uprooted in a dismal period of our history, in the moment of our terror, our divisions, our weakness—it may be—our crime. Re-establish the Commons on the broad foundation of the people's choice—replace the peerage, the Corinthian pillars of the capitol, secured and adorned with the strength and splendour of the crown—and let the monarch of England, as in ages past, rule a brilliant and united empire in solidity, magnificence, and power. When the privileges of the English parliament were invaded that people took the field, struck down the monarchy, and dragged their sovereign to the block. We shall not imitate the English precedent, we shall revere the throne. We struggle for a parliament, its surest bulwark, that institution you prize so highly, which fosters your wealth, adds to your prosperity, and guards your freedom, was yours for 600 years. Restore the blessing and we shall be content. This prosecution is not essential for the maintenance of the authority and prerogative of the crown. Our gracious sovereign needs not state prosecutions to secure her prerogatives or preserve her power. She has the unbought loyalty of a chivalrous and gallant people. The arm of authority she requires not to raise. The glory of her gentle reign will be, she will have ruled, not by the sword, but by the affections ; that the true source of her power has been, not in the terrors of the land, but in the hearts of her people. Your patience is exhausted. If I have spoken as I could have wished ; but if, as you may think, deficiently, I have spoken as I could. Do you, from what has been said, and from the better arguments omitted, which may be suggested by your manly understandings, and your honest hearts, give a verdict consistent with justice, yet leaning to liberty ; dictated by truth, yet inclining to the side of accused men, struggling against the weight, and power, and influence of the crown, and prejudice more overwhelming still—a verdict to be applauded, not by a party, but by the impartial monitor within your breasts, becoming the high spirit of Irish gentlemen, and the intrepid guardians of the rights and liberties of a free people. When Mr. Whiteside concluded his truly eloquent address, which was listened to with intense attention, he sat down amidst a burst of applause which the presence of the court could not suppress.

Mr. M'Donough, Q.C., rose and said—May it please your lordships, and gentlemen of the jury, in this case I appear here as counsel for Mr. Barrett, the proprietor of the *Pilot* newspaper. Mr. Barrett stands indicted for an unlawful, malicious, and seditious conspiracy to overturn the law and constitution of these realms. Associated with him in that indictment are several other persons, and amongst them two members of parliament, one of them high in rank in the legal profession, a gentleman

holding a patent of precedence from the crown, and entitled to precedence immediately after her Majesty's sergeants-at-law. But this indictment takes a wider range, and soars to a loftier flight; the effect of it is not merely to fling imputations upon the traversers here—it involves, as I will show in the sequel, a grave condemnation of millions of the Irish people. The prosecutors admit that they have no direct or express evidence to establish this charge of conspiracy; they rest their case on presumptive evidence alone, on inferences from circumstances; and it is therefore important, gentlemen of the jury, that you should be distinctly in possession of the rules of judgment which apply to such cases, for to you is confided the task of arriving at a conclusion from the facts and probabilities under the guidance of the court. I presume you are familiar with that principle of the law which declares that every man is to be presumed innocent till his guilt is established. This presumption of innocence requires no statement to sustain it; the law of England is a just law, and does not narrow or restrict the right of an accused party to be held innocent of the crime laid to his charge until it shall have been brought home to him by clear and positive evidence. You have, therefore, the assurance and authority of the law for presuming every man innocent 'till the contrary is established; and how is this to be done? It is not by exciting suspicions—it is not by creating doubts or starting difficulties; probabilities are not enough to justify a verdict. It is sufficient that you should collect from the facts and circumstances proved before you that the accused may be guilty, or that this innocence is doubtful. That innocence must be incompatible with the sworn evidence before you can find a verdict of guilty. An eminent authority, Lord Kenyon, has declared that no man ought or could be found guilty according to the law of England unless the jury were firmly assured that his innocence could not by any possibility be reconciled with the facts disclosed in evidence. It has been often said, and no doubt you have heard it, that circumstantial evidence is in many cases safer to rely upon than direct testimony; but there is only one case in which that holds, namely, where the circumstances are utterly incompatible with the supposition of the prisoner's innocence. The utmost caution is therefore necessary to be exercised in estimating the weight and effect of circumstantial evidence, and if juries imperatively require the safeguard of this caution where the evidence is all on the one side, how much more indispensable is it in the present case where many of the facts and circumstances have a tendency to prove the innocence of the accused? It is my duty, on behalf of Mr. Barrett, to establish that innocence; to argue from what has been established in evidence, and to demonstrate to your satisfaction that the facts and circumstances do not bear out the allegations in the indictment. (The learned gentleman here read from the indictment the passage in which the intent is charged against the traversers, and proceeded), Gentlemen, that is the intent charged, and it is alleged that in pursuance and in order to carry out that intent the parties did certain acts, which I shall also describe in the terms of the document itself. (The learned gentleman read the passage alleging the conspiracy.) In these terms the intent and the conspiracy to carry it out are stated, and the indictment proceeds to enumerate several overt acts, such as that the parties assembled in this; and that place, with thousands of other persons—that they made speeches;

and the indictment concludes with charging three newspapers, the *Pilot*, the *Nation*, and the *Freeman*, with publishing those speeches. Now, gentlemen of the jury, divest the indictment of its technical jargon, ponder the weight, and scrutinise the severity of its imputations; consider the number of the criminals whom it shadows forth, if it does not directly accuse, and you will, I am sure, agree with me that it is not one which ought to have been lightly preferred, and that the evidence to support it should have been in its simplicity, cogency, and force, proportionate to the magnitude of the cause. Is the evidence you have heard simple, cogent, and convincing? No; it is confused, involved, and inconclusive. It is a medley of documents and speeches, and acts not grouped in any order, but irregularly flung together to support this baseless fabric of a conspiracy. As if to make confusion worse confounded, the Mullaghmast meeting, the latest in point of time, was selected as the first for proof. This was, I suppose, to let in light on the case (laughter;) but, gentlemen, it is my intention to throw light on the case, for I shall begin at the beginning, and go through the proofs respecting each meeting as they occurred, a course the more necessary to pursue and to insist upon at this stage of the proceedings, inasmuch as the Attorney General in his opening statement read those parts of the speeches which he supposed would have an effect hostile to the case of the traversers. I will read for you those parts of the same speeches which seem to me favourable to them, and I am convinced, gentlemen, that you will take notes of those passages with the same honest assiduity which I have observed you to exercise previously during the opening statement of the Attorney General. The first of the meetings, in order of time, brought under your consideration was that held in Mullingar, and I confidently appeal to the notes of the learned judges whether there is any evidence whatever of the circumstances attended on that meeting. Was there a single witness produce who proved to you what occurred there, or the numbers who attended? They might have been stated truly and accurately. They might have been lessened by design or exaggerated by fancy, but there has been no evidence of any human being on the subject. No test of cross-examination could be applied, and yet this meeting occurred in a county near Dublin, studded with police stations, swarming with constabulary, and plentifully supplied with magistrates. The meeting was so constitutional, so unexceptionable, that the gentlemen who conduct this prosecution for the crown have made their selection, they turn aside from the inquiry, and they call no witnesses, either policemen or magistrates from that locality. They have one of the public newspapers of the day, they resort to the *Pilot* of May, 1833, that is the evidence in this state prosecution to prove that transaction. The portion which they read purports to be a report of a public meeting held at Mullingar on the 14th of May. At that time Mr. Barrett, my client, was the registered proprietor and printer of that paper. He was responsible for what appeared in that paper, being the only person that had any control over it. If the report of those speeches, said to have been made at the meeting, to which the character of sedition is ascribed, was considered libellous, the crown had the opportunity of prosecuting and bringing to justice Mr. Barrett, the registered proprietor. They might have indicted him for that publication in May, 1843, and if they had done

so your attention would be confined to the single fact, and not distracted, as it has been, by a variety of topics. But that course has not been pursued by the crown, and you are trying now in 1844, a charge of that species of crime which Sir William Purcell, and other eminent criminal writers, spoke of. In 2d Russell, 675, it is said that perhaps few things are left so doubtful in the criminal law as the point at which a combination of several persons in a common object becomes illegal. But this old document of 1843, which was hastening to oblivion, as well as its contents is produced, and not only is it given in evidence against Mr. Barrett, but against all the traversers, and put in evidence against Mr. Barrett, not as showing that he published a seditious libel, but that he had criminality in his mind, and that he was a conspirator. To convict him you must be satisfied that he was a personal conspirator; but with what shadow of justice can this report in a public newspaper be proved as being entitled to the least importance against the other traversers? What is it? a mere narrative of past facts. It may excite some surmise whether posterity will not condemn a prosecution in which, when it was sought to convict Mr. O'Connell, the first piece of evidence found against him was one of the public newspapers of the day, printed eleven months before. These are the overt acts. It is not the overt acts that constitute the crime—the mere assembling of the meetings was nothing; but you are to find that the traversers combined and conspired for the wicked purposes imputed on this record, I refer you to this piece of evidence, the newspaper, if it deserve the name. If any one of us subscribe to a particular society, is it fair that we should be liable for publications in a newspaper in sustaiment of the views of that society? The *Pilot* of the 15th of May contains a report of the meeting at Mullingar, at which the chairman made these observations:—"He said they had assembled for the purpose of petitioning for a repeal of the act of Union having found, by bitter experience, that the Imperial Parliament was not able, or at least willing, to do any good for Ireland. If they had back their own parliament Irish interests would be attended to; and he need hardly tell them, that if they had it the Irish agricultural interest would not have been so completely ruined as it was. It was a shame for the landed interest and the aristocracy, who were instrumental in putting the present government into power, and who were almost ruined, without any good being done to any other class, that they did not come forward and declare that they should legislate for themselves and manage their own affairs. If they had their parliament, native industry and manufactures would be encouraged; taxation would be reduced to less than half what it was at the present time; the people would be able to purchase a large quantity of the beef and mutton produced in the country; the labourer and the artizan would have constant employment and good wages; sectarian prejudices and animosities would be totally forgotten in the universal prosperity and happiness that would exist throughout the country, and Ireland would then constitute the real strength of England, instead of being, as she was at present, a source of weakness and embarrassment to her. These were blessings worth struggling for, and they had come there that day to assist the Liberator of their country in obtaining them." The object of the meeting was to petition parliament for the repeal of an act

of the legislature, and that is a right that every British subject is entitled to exercise. Independent of any other statute, the bill of rights asserted and defined the right of the subject to that constitutional privilege. The exercise of it was at one time endeavoured to be curtailed; but it was again asserted, and the legislature of England confirmed the subjects' rights, and declared by an act that "all commitments and prosecutions for such petitioning were illegal;" and I will now, gentlemen, read a page for you from a work which you have frequently heard quoted in the course of this trial, 9th Carrington and Payne, page 110, in which Baron Alderson holds the same principles as the right of the subject. And in the case of *Kemp v. Neill*, it was declared by resolutions of the House of Commons that all such petitions were legal and receivable. The people of Ireland then did meet, and when their universal feeling was demonstrated by those meetings, then was the time for them to present them to the House of Commons. It is equally clear that they had a right to meet and discuss what they considered to be their grievances, as well as those which really were grievances, and such is the language of a carefully prefaced charge of the same judge, Baron Alderson, to the grand jury of the county of Monmouth so late as 1839, and there cannot be the least doubt of it. I now beg to refer your lordships to the doctrine laid down by De Lorme in his work called "The Constitution of England," page 310, which is to the same effect. Gentlemen, the crown have proved that those meetings did take place, but they have proved nothing to show that any one of them was an illegal assembly. The crown, I say, have established that they were convened for legal purposes; they have not attempted to show any thing to the contrary, and it is a rule of law as well as of common sense that no criminal intent is to be assumed with sufficient proof, either by direct or circumstantial evidence of its existence. The resolutions at these meetings having been passed, a resolution of loyalty and attachment to the Queen was adopted, and the people separated, after having given three cheers for her Majesty. When that demonstration for loyalty had been made the people dispersed. The only speech at that meeting which is charged as an overt act, is that of Mr. Barrett, and his after-dinner speech is selected for that purpose. The same sentence spoken before dinner might be open to the charge of indiscretion, but it appears to me to be the greatest confusion of metaphorical language I ever met with—the allusion to the old woman's cow. I can't understand. It was as I said, a confusion of metaphorical language; but to argue gravely that it was an overt act of a conspiracy surpassed any thing I ever heard resorted to in the desperation of a falling case. He did not say that they would stand up to fight against the Queen's troops, but he says they may silence us if they please, but yet we'll get our independence. The next meeting in order of time is the Longford meeting, which took place on the 29th of May, although those meetings were not presented in their order to you. I shall take them as they occurred. In reference to this meeting two police constables were examined, James Johnston and John Maguire, and I very much regret the manner in which Johnston gave his evidence, and the contemptuous manner in which he spoke of persons that he called Priest so-and-so, for I think that temperate and respectful language should always be applied when speaking of ministers of religion of any denomi-

nation. One of them the Rev. Mr. O'Beirne, said that the loyalty of Ireland was not the loyalty of expediency, but that Ireland should cease to be legislated for by persons who did not understand her condition, and he gave a very meagre and incorrect outline of what took place at the platform. I am sure the witness was labouring under some extraordinary excitement when he told Mr. Fitzgibbon, who cross-examined him, that the people came to that meeting in a sweating rage of excitement. What were the mottos he saw there? One was the Irish words "*Cead mille failtha*," and the other "Repeal and no Separation." That was the way the people of Longford understood the meaning of this agitation. Gentlemen of the jury, the *Freeman's Journal* of the 31st of May, was read to you, in which Mr. O'Connell made some severe comments on Lord Beaumont, who thought proper to make a severe attack upon him; and if Lord Beaumont felt that he had a right to complain of this he might have instituted a prosecution for it. But that is a matter with which you have nothing to do; this language in reference to Lord Beaumont cannot effect this prosecution; a personal quarrel can have no concern with your verdict. The crown next gave in the paper of the 31st of May, and several portions of Mr. O'Connell's speech were read from them, and I now shall read to you some passages which were not read by the Attorney General. The learned counsel continued to read a variety of extracts from Mr. O'Connell's speech at the repeal association, on the 31st of May, 1843, and contended that the whole tenor of Mr. O'Connell's expressions were such as to indicate his anxiety to promote good will and union amongst all classes of the community rather than to set one class of her Majesty's subjects against the other, as he had been accused of doing by the Attorney General. The next meeting to which the Attorney General had alluded to was the meeting at Drogheda. Not a single witness had been brought upon the table to prove that meeting, or to prove Mr. Barrett's connexion with it. All the testimony with which we have been favoured on this point is a copy of the *Pilot* newspaper of June the 7th, containing a report of the Drogheda repeal demonstration, and even that is not an original report, but was cut by the scissors-editor of Mr. Barrett's paper, and copied from the *Freeman's Journal* and *Drogheda Argus* into the *Pilot*, just as it might have been copied into the *Mail* or the *Packet*. The learned counsel read a variety of extracts from the report of the repeal proceedings at Drogheda, Mallow, Donnybrook, and Tullamore, and then continued—Gentlemen, find out of all this a conspiracy, if you please; find it if you can. The doctrine of law is that you are to acquit every man, but to convict them only if you must. I defy you to find an overt act of a conspiracy in all these quotations; I defy any man with an honest understanding or a just conscience to do so. There is one motto, which was exhibited before the meeting commenced, which requires some explanation—"Ireland her parliament, or the world in a blaze." True it is this motto was not at the meeting, and equally true it is, was not on any road leading to the place of meeting; it was in a back street, and it was not put up by any one who came to that meeting, but by some inhabitant or person staying in the town. But is Mr. O'Connell and the other traversers to be found guilty, because of that? We shall give proof about that matter; we shall

not permit it to sully the character of these meetings. We shall prove that it was ordered to be taken down the moment it fell under the observation of those who took a part in the meeting. Another motto was—"Repeal, Justice and Prosperity to all Creeds and Classes," and that was suffered to remain. That did not dishonour the meeting. Mr. Stewart admitted that the meeting was of a peaceable tendency, but that the people came there with great regularity on horseback. Why, no honest man could blame them for not allowing their wives and children to be trampled on by travelling in regular order. He would recollect that, but he could not remember that anything was said about Ribbon societies. He did not see "Repeal and no separation," nor did he see God save the Queen, with the emblems of a rose, thistle, and shamrock, entwined around it, and gentlemen, I trust in God, and I am sure I speak the sentiments of my client, long may she and her descendants wear that crown adorned with the shamrock, rose, and thistle, around it.

At this stage of the learned gentleman's discourse, the court adjourned to ten o'clock next morning.

---

#### SEVENTEENTH DAY.

The court sat at the usual hour.

Mr. O'Connell—My lords, I respectfully submit to the court, as the line of observation which it will be my duty to take, will not be precisely that taken by any other counsel, and as I know the materials Mr. M'Donough has will take a considerable part of this day, if it were not interfering too much with the course of the trial, I would be glad your lordships would hear me on Monday, and not call on me this day. I can promise the court that in what I have to say, and it is not much, I shall condense still more, by knowing that I shall be called upon on Monday.

The Chief Justice—Certainly, Mr. O'Connell, we shall comply with your application. I wish to know if Mr. Steele intends to address the court.

Mr. O'Connell—No, my lord.

Mr. M'Donough resumed his address, and commented upon the evidence produced with respect to the Baltinglass, Longford, Clifden, and Tara meetings. In referring to the Tara meeting he said—With respect to what had been stated concerning Captain Despard, he agreed with Mr. Hatchell that the affair was nothing more than a joke of some clever Irishman, whom he believed he would be able to produce. Mr. Trevelyan, a writer of one of the morning papers, while travelling in a hackney car, asked the driver what the letters G.P.O. meant, which he observed on the milestones? The reply was, "God preserve O'Connell." Now, he (the driver) was humbugging, just as the man humbugged Captain Despard. He (Mr. M'Donough) that he could prove to the satisfaction of the jury that the person who quizzed Despard was neither more nor less than some pleasant Irishman, who said to himself, "Come, I will have a joke with you." The next meeting was that of Mullaghmast. An attempt had been made to show that a placard had been written and published in furtherance of



the common plan and design of conspiracy, which, it was alleged, existed amongst the traversers; but anything more absurd than such an attempt he had never heard of; for he denied that there was any, even the slightest community of sentiment between that placard and the speeches made by Mr. O'Connell or his fellow-traversers. The inference which was plainly left to be drawn from that foolish, nonsensical document was, that the massacre of Mullaghmast was a massacre of Catholics by Protestants, whereas one of the most forcible and energetic passages in Mr. O'Connell's speech on that occasion, was that in which he expressly impressed upon the minds of his audience the fact, that the tragical occurrence of by-gone days to which he alluded, did not arise out of any sectarian difference, for that the men who had been murdered were Catholics, as were also the men who slew them. He told them that both the slayers and the slain were of the same religion, and his purpose in alluding to the event at all, was not to set one class of religionists against the other, but to warn all Irishmen against suffering themselves to be made the victims of treachery and fraud. The placard, therefore, was manifestly at direct variance from the avowed sentiments of the traversers, and although it had been distinctly proved that not one copy of it ever reached the platform or the banquet-room, the crown call upon you, gentlemen, twelve honest intelligent men upon their oaths, to declare that the traversers were fully cognizant of its contents, that it was published at their instigation, and published for the furtherance and promotion of one common seditious design. It was printed, not by Mr. Browne, who they have endeavoured to show was the acknowledged publisher of the association, but rather by a man of the name of Hanvey, whom they have not brought upon the table, although his name and address were given in full at the foot of the publication. Why did they not bring Hanvey on the table, as they had brought Browne, and prove, if possible, out of his lips the connexion of the association with the placard? They had refrained from doing this, because they well knew that they would be utterly unable to prove any such connexion. He now begged leave to direct their attention to the speech of Mr. Barrett, at Mullaghmast. The learned counsel read from the *Freeman's Journal* the report of Mr. Barrett's speech on the occasion of the Mullaghmast demonstration. He would now come to the next meeting, which was intended to have taken place. He alluded to the intended meeting at Clontarf, and he would more particularly refer to the substituted meeting which was held at Calvert's Theatre, on the 9th of October. It was proved by Mr. Bond Hughes that a meeting was announced to take place at Clontarf, but the evening previous to the day on which it was to be held, a proclamation was issued by the Lord Lieutenant, by the advice of course, of his law advisers, prohibiting that meeting. That was the first interposition of the government, and it was obeyed with a promptitude worthy of commendation. He relied upon the fact of that prompt obedience as being favourable to the traversers. It was the prevention of that meeting that occasioned the assemblage at Abbey-street Theatre. He paused for a while to ask every honest-minded man whether the obedience to that proclamation was not the most practical illustration of the doctrine of peace so frequently expressed by Mr. O'Connell. His admonitions to observe the law were sounding in the ears of the Irish people.—he.

had been repeating them over and over again throughout the whole course of the agitation, and he (Mr. M'Donough) submitted to the understandings of the jury that Mr. O'Connell's words and deeds were the best proofs of the purity of his intentions. Well, the Clontarf meeting did not take place, but the resolutions prepared for Clontarf were approved of at the meeting on the following day in Abbey-street. It was well that meeting was held, because it evidenced what the peaceable objects of the intended Clontarf meeting were. The two first resolutions adopted at the Abbey-street meeting asserted the right of petitioning for the repeal, and perfect allegiance to the Queen. The third was a vote of confidence in Mr. O'Connell, and the fourth was to the effect that a petition be forwarded to the House of Lords and Commons for a repeal of the legislative union. Mr. O'Connell made a speech upon that occasion, in which he said that he had two objects—one of which was, to proclaim to Ireland that there was but one way of obtaining the repeal, and that was by obedience to everything bearing the form of legal authority. Resistance was not right until legal authority was done away with ; and the iron and dread hand of power was raised against them. Those were precisely the same sentiments which Mr. O'Connell uttered at Mallow. At the Abbey-street meeting he also cautioned the people to obey everything that looked like legal authority, and they received the injunction with cheers and cries of "we will." He said he wanted to carry the repeal of the union without one drop of blood—without disturbing the social order, but by legal and constitutional means—so that when he came to face his Redeemer at the moment of his account, he would have nothing to answer for in the advice he gave to the Irish people. Mark (said Mr. M'Donogh,) we do not read this speech for ourselves—the crown have actually read it against us. He would now come to certain publications attributed to Mr. Barrett. The indictment embraced proceedings and publications of Mr. Barrett's for a period of about nine months. He published, during that period, three times a week, each paper, containing three or four columns of leaded matter. After all the assiduity of the crown, they were only able to bring against him the publication of reports of meetings, and his attendance at three dinners. Four leading articles are all that is charged against him. Now, with respect to the first, it is a report of public meetings which he, as a matter of course, published contemporaneous with other journals of the city. The *Saunders*, the *Monitor*, and other papers, published the same things, some, perhaps, in a more abridged shape, and others more enlarged ; and will you, gentlemen, say that these papers are guilty of a conspiracy for having done so ? This is a class of publication which is generally done by the sub-editor, or scissors man, who cuts out the report from other journals, and condenses it, or otherwise ; and in all the cases where reports of public meetings are given in the *Pilot*, I only find one headed "from our own reporter," not one more, all the rest being copied from the *Kilkenny Journal*, *Drogheda Argus*, the *Freeman's Journal*, or other papers, and was Mr. Barrett to be charged with a conspiracy for doing what was done by every newspaper in the world ? Mr. Barrett was charged with having made three speeches, but he never attended one of the monster meetings at all, not because he repudiated them,

but for the plain and simple reason that he was not a member of the repeal association. It was stated by Jackson that Mr. B. handed in money to the association, and that was all. He did not make a speech there in his life, nor was he charged with having done so, it was not even attributed to him that he did so. He attended there, and because he had the honesty to hand in money that was remitted to him from the country, he was charged with being a conspirator. Mr Barrett merely handed in money intrusted to him, but he never paid one shilling himself to the association, nor did he in any manner interfere with the internal arrangements of the association. He took no part whatever in the proceedings, not because he repudiated it as illegal, he knowing it to be perfectly legal, and he (Mr. M'Donough) insisted it was purely legal, but because Mr. Barrett was not a member of the association, and therefore he took no part whatever in its arrangements. He never attended a monster meeting in his life for the same reasons. Well, there were certain other charges sought to be made against him, and one of these was a short article introducing a report of a meeting which was held in America, and at which Mr. Tyler, the son of the president of America, attended and made a speech. The sentiments made use of by Mr. Tyler were absolutely attributed to Mr. Barrett. You remember, gentlemen, the article; it was inserted in the *Pilot* of the 10th of March last. This was a short leading article, introducing or referring to the meeting which took place in America. It called on her Majesty's ministers to pay attention to the fact, that the son of the American president attended the meeting and made a speech in moving the first resolution, and that his speech was a bold and statesmanlike effort. That was the passage relied on by the crown as a conspiracy because Mr. Barrett called the attention of the government to the fact of Mr. Tyler attending a meeting in America. The meeting in America was called in order to sympathise with Ireland for the struggle she was then making for the recovery of her legislative union. He proceeded to read certain passages from the speeches made at the meetings in America to the following effect:--Mr. Tyler said they had assembled there to express their opinions on the wrongs of this country.

Chief Justice---Where was that meeting held?

Mr. M'Donough---At the city of Washington, in America, and the crown seeks to make what took place there, as evidence against Mr. Barrett, and says it is an overt act of the conspiracy which it is sought to charge the defendants herewith. A gentleman makes a speech in America, and the crown fastens on certain passages of it and charged his client with conspiracy for having published that speech; was that fair or just? Well, Mr. Tyler proceeds---He says "it is our duty to express our opinions on the force exercised by England over Ireland." He would ask was there anything unconstitutional or illegal in that, if so farewell to free discussion on every subject. Will it be said that men cannot meet and talk on every subject they please? If you come to the conclusion that it was illegal, why then the government will step in and put you all down when you meet to discuss any subject no matter how legal it may be. Well, you heard that Robert Tyler made a speech and that one passage of it ran thus: "The libation to freedom was often purchased in blood;" but if the jury took

the whole context of that speech, it was as clear as the noon-day that he referred to the freedom of America, which was unhappily purchased in blood. He read the speech and proceeded—Mr. Tyler said the Irish soldiers, poets, and writers were the admiration of the world, and for publishing this speech Mr. Barrett is charged with having concocted a plan of conspiracy. The Hon. J. M'Keon, member of Congress for New York, also made a speech at that meeting, and because you are told it was a bold speech, it is laid as an overt act of conspiracy against my client. He would call their attention to a remarkable piece of evidence, which was all-important, as it was charged against Mr. Barrett, that he published that speech as an overt act; in fact, they gave the publication of it as proof of the conspiracy. But what he for one would give in proof, as a substantial piece of evidence, would be an article in the *Pilot* newspaper of the 12th of April; it was the act of the association, of Mr. Barrett and Mr. O'Connell; and it was not by one act but by all—by a fair, just, and manly view of their acts that they should be tried. He then read the speech of Mr. O'Connell contained in that paper, in reference to the speech of Mr. Tyler, in which he stated that the association should avail itself of that opportunity to explain the position in which they stood with the people of America; that the value of freedom should not be overrated, but that a revolution would be too dearly purchased at the expense of one drop of blood; and that in his time, and while he lived, not a drop of blood should be spilled except it might be his own; that he wished to exhibit his gratitude to the Americans; but at the same time to point out the species of peaceable support he would receive, and that he sought no change that would not be effected by legal and moral means. He (Mr. O'C.) concluded by proposing that the thanks of the association should be conveyed to Mr. Tyler, and that a letter, expressive of the opinions of the association, should be written by Mr. Ray to Mr. Tyler. Mr. M'Donough then read that letter, and went on to observe that that was the manner in which the sentiments of Mr. Tyler had been responded to, and that was the mode in which the sympathy of the Americans was accepted—every means of effecting the objects of the association that were not moral and peaceable were rejected. He then said he would read a document as evidence of the peaceable intentions of the association—it was the plan for the formation of the National Repeal Association, as published on the 51th of April, 1840, three years before any attempt was made to suppress that body. [He then read the rules of the association]. He then observed that the rules of 1840 were acted upon in 1843. That they had not been changed or deviated from, and embodied the same spirit and principles—the same sentiments were continually repeated—the same moral and peaceable means were over and over again promulgated; and was it because an angry expression had occasionally fallen from some of the traversers, that the jury were to fasten fastidiously upon it, and exclude their repeatedly peaceable declarations from their consideration. If the rules which he had read were the rules of that body, it was absurd to say it was an illegal one.

Here the Chief Justice asked for the newspaper containing the rules to be handed to him.

Mr. M'Donough—I have now to refer to an act of one of those

defendants, and it is the act of the whole of that body. I refer to the *Freeman's Journal* of the 30th of January, 1841. "At a meeting of the repeal association, Mr. O'Neil Daunt said it was now his pleasing duty to state that answers had been received from her Majesty and his Royal Highness Prince Albert, announcing the receipt of the address forwarded to them by the association, congratulating them on the birth of the Princess Royal (immense cheering). The learned gentleman read the letter Mr. Ray forwarded with the address, and replies of Mr. Maule, acknowledging its receipt by her Majesty." Why these unfortunate men, for unfortunate they are, whatever may be the result of this trial, who are now stigmatised before the public as traitors planning the severance of those countries, are from the year of 1840 to 1843, known to the authorities, inviting by their rules the interference of the authorities amongst them, and declaring they would throw open their books, not alone to a magistrate, but to a common policeman. Well, those very men that are now stigmatised as traitors are communicated with by the authorities, when, in their loyalty, they send that address to her Majesty and Prince Albert. (The learned gentleman read a communication, acknowledging the receipt of the address, by Prince Albert, and conveying his thanks for the sentiments it contained). Mr. O'Neill Daunt moved that those documents should be inserted on the minutes of the association; and Mr. Clements, a Protestant gentleman, and a member of our bar, seconded the motion, which was passed amidst acclamation. These traitors and conspirators are known to the law; from 1840 they are suffered to go on; they are permitted to think themselves what they are, a legal body; and yet, in the year 1843, without an act of parliament being introduced to indicate to those men, misguided if they be so, that they should not longer continue those acts, they turn round upon them, and indict them for conspiracy: instead of indicting the particular parties that may be the medium of conveying these alleged seditious speeches to the public, or venturing to indict them for attending an illegal assembly. Now, gentlemen, the fourth piece of substantive evidence which I accumulate on that particular topic, and when I come to offer it hereafter, I shall place it with one particular subject referred to, that is the letter of Mr. Tyler. (The learned gentleman read a letter from Mr. Ray to the Repeal Wardens of London, reprehending them for permitting Chartists to join their body, and directing them to return the money they had received from them, as the association would not enrol the names of any persons who were Chartists on their books.) I shall be able to give in evidence that particular letter, and shall read it in connexion with the renunciation by the association of all sympathy from America, save that which concentrates moral opinion. I read in connexion with it the repudiation of the Chartists, and directing that the money should not be received, because their doctrines or those of their leaders inculcated a reference to physical force. As the other leading articles that were ascribed to Mr. Barrett were not written by Mr. Barrett; but whether it was written by him or not in the discharge of his duty as a journalist, or whether he erred in that duty, is no ground to say he is a conspirator. If such a principle were established, no more effectual mode than this could be selected to extinguish the liberty of the press in this country. An act of parliament,

the 5th and 6th Victoria, has been recently passed, the effect of which is to extend the liberty of the press, and this act of parliament is virtually sought to be repealed by this prosecution. If this prosecution succeed, instead of prosecuting a proprietor of a newspaper for a libel, they have only to gather together various other papers and proprietors, and say we will indict them for a conspiracy, and thus exclude them from the fair defence which the statute affords them. I shall now call your attention to the 5th and 6th Victoria, entitled an act to amend the law relating to defamatory libels.

Solicitor General---But not seditious libels.

Mr. M'Donough---I am speaking generally on the subject. (The learned gentleman then read an extract from the act of parliament.)

Chief Justice---Is that an imperial act?

Mr. M'Donough---Yes, my lord.

Judge Crampton---Extending to Ireland.

Mr. M'Donough,---Yes, my lord. The Solicitor General suggests that a seditious libel is not referred to in that statute. This act only just now occurred to me, and I am not prepared to say that he is not right, and from his greater familiarity with the act of parliament he may be so. But suppose the words "seditious libel" are not there, parties may be indicted for conspiring to defame another just as well as if a conspiracy, by seditious papers, to effect a certain purpose, and any private prosecutor, if this precedent be established, may, instead of bringing an action of defamation, indict a party for a conspiracy to defame him. This is an effort to suppress the liberty of the press in this country, by seeking to make a journalist guilty of an overt act, from all the leading articles that shall be raked up and pushed in, one after another, against him. As to some of those articles, they were not written by Mr. Barrett at all, but when Mr. Barrett was out of town, and on his return, Mr. Barrett reproved, with just severity, the party that had written them. I allude to the article where the murder or homicide, I shall not pronounce the character of the offence, for which a man is committed for trial at Tullamore, was spoken of with levity, and Mr. Barrett reproved the person that put that article into his paper. I call the attention of the court to this proposition, that although, on a constructive publication in a newspaper, an arbitrary rule has been adopted by the judges that the publication shall be evidence against the party in the indictment for libel, even though his mind was not guilty. That cannot hold, however, where the charge is that he conspired; for where the indictment is for conspiracy it must be shown that he was not only guilty in act but in intention. The next letter to which he would refer was one signed by a Rev. Mr. Power, a parish clergyman of the Roman Catholic persuasion, and that letter referred to "the duties of a soldier." He thought it singular, in the annals of jurisprudence, that, instead of instituting a prosecution against the writer, if it deserved a prosecution, that it should be instituted against one who had no connexion with it. Mr. Power's name was subscribed to that letter, and he was ready to avow it, he was ready to justify it, and he will do so before the termination of the trials, when it will be shown that at the time that letter was received Mr. Barrett was absent in his country house. Why should a letter, which was printed in his news-

paper, during his absence, make him liable to punishment, or how can it prove that he entered into the conspiracy charged in the indictment---a letter, the contents of which he was, when written, altogether ignorant. Did, he would ask, that letter communicate the purpose of his client's mind, and the fact that he had entered into the conspiracy? Quite the reverse, for, as already stated, he knew nothing about its contents. The very concluding language of judges to juries proved his assertion "that unless they were satisfied of a previous conspiracy they were bound to acquit the defendants." That fact was involved in the consideration. It would not do to reach any, or all of them, by arguing in a circle, or to surround the entire of them by meshing them altogether, they, the jury, were bound on the oath they had sworn that there was a previous conspiracy, they were to do that if they could. As to the letter written by Mr. Power (and of which Mr. Barrett had no knowledge, and of the publication of which he knew nothing), he therein put forth his own sentiments, and which he published to the world; and in doing that he only followed the example of men who were equally attached to the soldiery, who had no idea to corrupt them, whose only object was to inculcate on them moral duty. There was a remarkable trial on that subject to which he would refer. The Attorney General of that day, and it was a most agitating period, filed informations against John Drakard. He would read the particulars from Lord Brougham's speeches, Introduction, pages 7, 8, 9. The very same charge was also attempted to be brought against a public journalist. Had any one of the troops serving in Ireland departed from his allegiance to the sovereign, or had any attempts been made to tamper with one of them? Had any soldier been brought forward to support the charge? Not one. It was sought to produce a certain result, which certain result had not, and could not be produced. The leading articles published in the *Pilot* newspaper could not be brought forward as libels. Supposing that they were published by Mr. Barrett's consent, they only showed that he (Mr. B.) was moved by a just feeling. The articles could not be condemned as seditious, and his client was not responsible for them. To support the charge of conspiracy against Mr. Barrett, it must be proved that he was responsible for them. They (the jury) would observe that the evidence given by Mr. Jackson showed that Mr. Barrett was scarcely ever at the meetings of the repeal association. When he was there he merely handed in money. He never made a speech at the association, and it had not been shown that he was ever there during the delivery of a speech. He took no part in the arbitration system; he took but little part at the association, and it was sought to convict on conspiracy. It was his (Mr. McDonough's) duty to divest his client of responsibility, and to show to what extent he, by fair and legitimate evidence, was connected with the transactions that had taken place in reference to the repeal question. Mr. Barrett was proved merely to have been present at three dinners, to have made but two speeches and to have written, or caused to be written, certain leading articles; and yet, they were to be told that on such evidence he was to be convicted of an atrocious crime. Certain matters had been referred to with a view to stamp the repeal association as illegal. For example, it was said that Mr. Bond

Hughes had produced a manifold copy of a letter, purporting to be written by a Mr Skerrett, on the subject of elections. What at last did Mr. O'Connell? He (Mr. M'Donough) was referring to the letter. "When the proper opportunity should arrive they would have a right to put him out." Now, the very principle of representation was that the elected should represent the feelings and wishes of the majority of the electors. Mr. O'Connell did not say "put him out against the law," but just this—"when the law shall give you the right, why then exercise your right." He (Mr. M'Donough,) read a speech in which Mr. O'Connell stated that no man should be interfered with as regards his private relations of life for not being a repealer—that in public relations only, parties should be either approved or disapproved; by that he meant that a person should exercise his own judgment at an election. Now, such a statement as that was brought forward for the purpose of sustaining an act of illegality. He would now say a few words relative to the arbitration courts. In one of the reports of the sub-committee it was stated that one proposition was, that if any person should dissent from the award he should be expelled. That proposition was never adopted, but even if it were, the certificates were never issued. That he was prepared to prove; if the arbitration courts had contemplated anything immoral or illegal would they have admitted Bond Hughes to their meetings, and have given him manifold copies of their documents? Their meetings were public, the police were admitted and treated with respect, and the committee consisted of 500 persons, seven of whom were barristers of considerable eminence. Could anything like a conspiracy be inferred from that? The document suggesting the expulsion of any member who did not submit to the award of the committee was never adopted; but if it had it would be no more an act of illegality than that well-known rule of the quakers, by which any member of the body was expelled who refused to submit his cause of difference to the arbitration of his brethren, and abide by their award. The formation of the arbitration committee formed no part of their original plan, it sprung out of the dismissal from the commission of the peace of a number of gentlemen in whom the people had confidence, and therefore should not be regarded as an over act proving a previous conspiracy. Besides, these courts never exercised the authority of magistrates, nor administered an oath. Their first act was to disclaim such authority, and the first case that came before them stood over, and no decision was come to, because the parties did not choose to submit to the award. The learned gentleman next referred to the Queen's speech, which appeared in the *Gazette* of the 29th of August, 1843, and expressed his conviction that the Attorney General would not make any use of that speech that would be hostile to the interests of the traversers. He (Mr. M'D.) then read an address of the Attorney General in the celebrated case of Hardy, in which that eminent lawyer told the jury that they were not to deny the prisoner his presumption of innocence, even though an act of parliament had been passed characterising his conduct as a conspiracy to subvert the monarchy. He warned the jury against giving any weight in their deliberations to the voice of the legislature. He (Mr. M'Donough) trusted the same course recommended by that Attorney General would be adopted by the



jury in the present case. He (Mr. M'Donough) had heard the Queen's speech with profound contempt---(much laughter)---with profound respect and veneration. He was sure his learned friends would admit that that was a mere mistake; and when he committed that mistake speaking before them in the sincerity of his heart, would they convict Mr. Barrett for any similar mistake into which he might have inadvertently fallen?

The Chief Justice---At what part of your speech do you think you are now?

Mr. M'Donough---My lord, I apprehend I have not much more to add, as I do not intend to go over any of the ground which has been so ably argued.

The Chief Justice---Well, the jury had better retire, and it is now more than half-past one.

The court then adjourned for the purpose of taking some refreshment.

When their lordships had returned Mr. M'Donough resumed his address. He reminded the jury that it was a settled law of the land, that when a man was accused of any offence, whether conspiracy or anything else, it was absolutely necessary that the jury, before they returned a verdict of guilty, should be satisfied that the evidence adduced on the prosecution was such as to bring guilt home to him beyond the possibility of doubt. This point had been distinctly ruled so in the case of the *King v. Pollard*, 2nd Campbell's Reports, page 293, and there were two points upon which the jury should be clearly convinced in their own minds before they found a verdict against the traversers. The first was the actual existence of the conspiracy, and the second was the purpose, design, or intent of the persons who were partners in that, so called, conspiracy. Mr. Erskine had acknowledged the truth of this maxim of law, and had stated the principle with much distinctness in Hardy's case, page, 359, of "*Ridgeway's Life of Erskine*." (The learned counsel here read the passage referred to.) The jury, in a case of imputed crime, ought, invariably to view the whole case as exhibited by the evidence, and if after a calm and dispassionate review of the testimony they felt any doubt of the guilt of the traversers, they were bound in duty to give them the benefit of it. Something had been said at the commencement of the present trial in allusion to the construction of the jury, but this was a topic upon which he would not touch, for he would never utter a word that could be by possibility construed into an expression of doubt upon his part, that the respectable and intelligent gentlemen whom he had the honour to address would discharge their duty with firmness, propriety, and discreetness. If they had upon their minds any rational doubt of the alleged conspiracy having been substantially proved by the evidence that had been adduced on behalf of the crown, they should not, they could not, find the traversers guilty. He admitted that he felt deeply interested in the results of the present proceedings, for if the jury could, consistently with the maxims of law and the dictates of their consciences, find a verdict of acquittal, he had no doubt but that verdict would do more to attach the people of this country to the administration of justice, and to convince them of the purity of the legal tribunals, than anything that had occurred for centuries past. Those who advocate the repeal are no

despicable faction—they are the majority of the Irish people. Whatever may be our speculations as to the result of your verdict, I cannot better conclude the observations I have had occasion to make to you than by humbly imploring Providence to lead your minds to a just conclusion. The learned gentlemen then resumed his seat.

Mr. Henn, Q.C., then rose, and was proceeding to address the court when,

The Chief Justice asked him for whom did he appear?

Mr. Henn replied, for Mr. Thomas Steele.—It was with unfeigned regret he felt himself compelled to obtrude himself upon their notice at that stage of the proceedings. He was not himself aware, until a very short time previously, that that duty would devolve on him. He was concerned for Mr. John O'Connell, having with him a leader whom he was proud to serve under, Mr. Sheil; he was his senior, and he did not think that he should have been called upon to address the court. But Mr. Steele, who appeared at first without counsel, had thought fit to change his original intention, and had been unwise enough to select him (Mr. Henn) for his advocate, and he was therefore compelled to undertake the duty that, under the circumstances, he could not feel justified in declining. But it was not for his own sake; it was for the sake of his client that he regretted it, because he did feel an honest conviction that his client's cause was just, and he was apprehensive that the strength of it might be affected by the feebleness of his advocacy. He knew that it would be most unbecoming for him under these circumstances to trespass on their time at any length, and he felt convinced that he should best discharge his duty to his client by making his observations as brief as possible. He felt that the subject had almost been exhausted by the learned gentleman who had addressed them with such extraordinary ability—he felt that everything that eloquence, wit, and sound reasoning could do had been already done; and in the observations he should have to make he would endeavour to abstain as much as possible from going over the same topics that had been discussed with so much more ability than he could approach them with; and he should, if possible, introduce new matter. He could not, he feared, introduce much of any importance, but he would avoid what had been already pressed upon their consideration, with this exception, that at the outset he should repeat what had been said by some of those who preceded him—he implored of them to recollect that they were not now empannelled to try whether repeal was politic, or whether it would be beneficial, or whether the discussion of it be beneficial to the country or not. He begged to impress that upon their minds, because he knew that at this moment there were hundreds out of that court who believed that that was the question they were trying. He knew before they were empannelled that there were hundreds, aye, thousands of their fellow-citizens, who were convinced that was the question to be tried. He knew that the case was prejudged by thousands of honest and conscientious men, and he felt convinced that before the facts of that case were opened, and before the law applicable to it was stated, there was not to be found in the city of Dublin two men who had not formed their opinions on this case? No, not two; he doubted if there was one. He was convinced that there was not a single repealer who had not pronounced the traversers "not

guilty," and that there was not a man opposed to repeal that had not pronounced a verdict of "guilty." He was anxious to press upon their minds that that was not the question they had to try. It was no matter what opinions might be entertained as to the mischiefs or benefits likely to result from repeal, those considerations ought not to influence them in their verdict. He did not desire to obtrude on them his private opinions, but he did not hesitate to say that he differed from the politics of the traversers. He did not hesitate to say that notwithstanding all he had heard and read he was of opinion that the repeal would be fraught with mischief to England and ruin to Ireland. He would not say he had not heard much calculated to shake the opinion he had already formed; and he confessed he should now enter into an argument upon the question with much greater reluctance than he should have done before this trial commenced. Still he had the presumption to retain the opinion he had already formed, and although millions of his countrymen honestly entertained a different opinion, and amongst them were very many much more competent than he was to form a correct judgment on the subject, yet, he had the presumption to retain his own opinion; he claims a right to entertain that opinion; he claimed a right to announce it; and a right to enforce it by all legitimate means; he claimed a right by every argument he could urge to convince others that he was right, to ascertain the numbers, the intelligence, and the respectability of those who agreed with him, and to take the most effectual means in his power to make them known to the government; but that right which he claimed for himself, he was willing to concede to others, indeed he claimed for his client (who honestly believed that a repeal of the union was essential to the well being of his country,) a right to entertain that opinion---a right to announce it---a right to enforce it---a right to ascertain the sentiments of the great majority of the nation upon the subject, in such a manner as would best make known those sentiments to the minister of the day. But he said again, the question for the jury was not, whether repeal would be beneficial or not, and it was now his duty to tell them what he conceived the prime questions were which they had to try.—They had heard it over and over again stated that this indictment charged nothing but a conspiracy, and that was probably true, but he did not think their attention had been sufficiently directed to the alleged objects of the imputed conspiracy. before he adverted more particularly to the form of the indictment he would tell them (under the correction of the court,) what he conceived to be the law applicable to this case, they had heard it said that a conspiracy to effect an illegal object was itself a crime, or even to effect a legal object by using illegal means; he admitted that, but he thought for all the purposes of this trial he might supply the question by stating that the two propositions resolved themselves into the one, and that one was, that a combination to do an illegal, or to speak more accurately, a criminal act, was itself a crime---a combination to effect a legal object, such as a repeal of the union was not of itself a crime, and, therefore, not a conspiracy, because conspiracy in legal parlance implied a crime; but a combination to effect it, by using criminal means, would be a conspiracy. The common object of all was illegal. If the jury kept this in their minds, he thought it would assist them in arriving at a right conclusion.

Why ? because to use criminal means is to do criminal acts, and then the combination to use the particular illegal means and not the combination to effect the common legal purpose, is the conspiracy. If men combined to do an illegal act, as, for instance, to beat a man, the act of one was not only evidence against the others, but was in the eye of the law, the act of each and all ; and if in the prosecution of the common unlawful object, one of the party executed the intention of the others, they were, nevertheless, answerable for his act ; and so in conspiracy, if persons conspired to do an illegal, or rather a criminal act, the act of one, in furtherance of the common illegal object, is not only evidence against, but, in point of law, is the act of the others ; but if the common object, as in this case, be legal, and one of the party, in furtherance of the common object, commits an illegal act, he is answerable for his own act, but his act is not the act of the others, and they are not implicated in his guilt. This is common sense and common law, and, therefore, in this case the jury could not convict unless they were satisfied that the traversers, or some of them, conspired, not only to endeavour to procure a repeal of the act of union, which was in itself unlawful to do, but to use the illegal means specified in the indictment, and indeed it was plain, from the form of the indictment, that this was the view taken by the crown prosecutors themselves, who prepared the indictment, for they did not charge the traversers simply with conspiring to procure a repeal of the act of union, because they knew that that was no criminal offence, a demurrer to such an indictment would have been allowed, and the jury would not have been troubled with any trial at all ; the pleader, therefore, charged the traversers with combining, not even to procure the repeal (except in one instance) by using illegal means, but charged them with conspiring to do various acts stated in the indictment to be illegal, without stating what the ultimate object was, and the question for the jury was not whether the traversers combined to procure a repeal of the act of union, but whether they conspired to use the illegal means charged in the indictment. He thought the only difficulty in this case (if any there was) was occasioned by the loose manner in which the Attorney General laid down the law, he stated it at first with sufficient accuracy, but he afterwards stated, more than once, that the act of one done in furtherance of a common object was evidence against others, without qualifying it, as he ought to have done, by saying, in furtherance of a common object, a distinction which he was sure was in the Attorney General's indictment, but not being expressed, what he said was calculated to mislead the jury. He cast no imputation on the Attorney General who was incapable of doing anything intentionally to mislead, but to say that the act of one, in pursuance of a common object, was the act of all, was preposterous. With these few opening observations, he would call their attention to the charges which had been preferred against the traversers. The crown prosecutors have thought fit to put eight persons on their trial, and they had also put on the files of that court a document in the form of an indictment, which had been well termed a monster indictment. It had a vast variety of charges set out on the face of it, and also a vast variety of what was termed overt acts. He did not complain of that, but he must say that the defendants were put to a great deal of expense

and trouble in consequence of the number of overt acts in the indictment, and the number of charges in the bill of particulars of which no evidence had been offered; there were sixteen monster meetings stated in the indictment; twelve in the bill of particulars, in all twenty-eight, and direct evidence of about ten only was adduced, he wished, however, to guard the jury against, supposing that their verdict must necessarily depend upon the proof or non-proof of the overt acts stated in the indictment; the question for them was whether the charges to which he should presently advert, were proved or not; the overt acts were only stated as evidence of the truth of the charges; the overt acts might be all proved as laid; yet, not be sufficient to satisfy a jury, that the conspiracy charged was proved; and on the other hand, he admitted they might think the charge established, although the overt acts were not all proved. He would now call the attention of the jury to the previous charges preferred against the traversers. He then read the commencement of the indictments, stating the intentions imputed to them, and then read the first charge, namely, "that they conspired to raise and create discontent and disaffection amongst the leige subjects of our Lady the Queen." Was there ever a more vague or unsatisfactory charge than that—to create discontent! If this be a crime there was an end to free discussion. How could any man convince others that an existing law was bad, and ought to be repealed, without creating discontent? How convince them that their condition would be bettered by the enactment of a new law, without creating discontent? Was any great or beneficial reform ever effected, without first creating discontent? It was absurd to allege that to be a crime. But if it were, did the jury believe that the traversers conspired to create discontent? Were they not satisfied that the common object (if any) was to procure a repeal of the union? and if some of them in furtherance of that common lawful object used means calculated to create discontent, did that support the charge of conspiracy of a preconcerted plan, not to procure a repeal of the union, but to create discontent? Certainly not. But the charge, he might be told, was to create discontent and disaffection amongst the leige subjects of the Queen, by what even the indictment does not state; but what the meaning of that charge was he was at a loss to discover. Did it mean disaffection to the Queen, which he admitted would be an offence, or disaffection to the government or constitution; or if it meant any of these things, it should have been so stated in a plain, intelligent manner. He was not quibbling. The charge should be clear and simple, that the accused might know against what they were called on to defend themselves. Nor was there any direct charge of disaffection to the Queen. No. To the government or constitution. No—only disaffection amongst the Queen's subjects. What did that mean? If disaffection to the Queen, what was the evidence of it, except that Mr. O'Connell loudly proclaimed his loyalty and attachment to her Majesty, and in terms calculated to inspire those whom he addressed with similar feelings? It was alleged that men might say one thing, and mean another. True; but those who preferred such a charge were bound to prove it. How could they judge of the thoughts of men, except from their words and actions? What were the words of Mr. O'Connell? The strongest expressions of loyalty. How

did he act when he addressed assembled multitudes? He inculcated loyalty and affection for the Queen, and his sentiments were responded to by cheers that made the welkin ring. Were the millions he addressed all hypocrites? If not; and if Mr. O'Connell had the baseness to intend what was attributed to him, namely, to create disaffection to the Queen, did he not take the most effectual means to defeat his own object? The next charge was, that the traversers conspired to excite the subjects to hatred and contempt of the government and constitution, as by law established. What is the meaning of the government?—it cannot mean the ministry. God forbid it should be criminal to canvass the conduct of the ministries of the day freely, or to expose them to contempt if their conduct deserved it; but it was absurd to suppose that ministers were meant. But was there any evidence of a conspiracy to excite to a hatred of the constitution? What is the meaning of the constitution? Surely, the government as by law established by King, Lords, and Commons. Would the repeal of the union, if carried, subvert the constitution? Clearly not; for, before the act of union, there was one sovereign, and two independent legislatures. Did the act of union subvert the constitution? It was not pretended that it did. What would the effect of the repeal of that act be? Merely to restore to Ireland her separate parliament, and leave the constitution precisely as it was before the act of union; it would, therefore, be absurd to say that that endeavour to procure a repeal of the union was to excite hatred or contempt of the constitution. The next charge was for conspiring to create hatred and ill-will amongst the Queen's subjects in Ireland, and divers of her Majesty's subjects in England. That (he said) was a most extraordinary charge, and it was new to him that it should be a crime. Let the evidence relied upon to support that charge, be considered, and what was it? Occasional passages in speeches delivered at different meetings. But they should consider what the speakers were doing, and what they intended. They were endeavouring to convince their hearers that the repeal of the union was essential to the prosperity of the country; and they were justified in resorting to past history to support their arguments; and if facts had occurred in the history of the country, calculated to excite ill-will amongst the people by the recollection of them, he deplored it. But had it been said that these facts were falsified, or misrepresented? It had not, even if expressions were some times used calculated to create ill-will when the real object was to promote the cause of repeal, that would not support the charge of conspiracy in the indictment, unless the use of such expression was the result of a preconcerted plan to excite ill-will, and not merely to procure repeal. The next charge was for conspiring to produce disaffection amongst divers of her Majesty's subjects in the army? Was that charge proved? What was the evidence given in support of it? It was precisely similar to the rest. They had proved that in one or two speeches of Mr. O'Connell he had commended the army, and they were told that, because he did so he was an arch conspirator. They had heard a publication read, which had appeared in one or two papers, and which he would not defend. It was a letter from a Mr. Power, which he would not canvass the propriety of; but he would say that it was unjust and unfair to make it evidence against others. The direct course had been abandoned, and a circuitous one adopted. They

and trouble in consequence of the number of overt acts in the indictment, and the number of charges in the bill of particulars of which no evidence had been offered; there were sixteen monster meetings stated in the indictment; twelve in the bill of particulars, in all twenty-eight, and direct evidence of about ten only was adduced, he wished, however, to guard the jury against supposing that their verdict must necessarily depend upon the proof or non-proof of the overt acts stated in the indictment; the question for them was whether the charges to which he should presently advert, were proved or not; the overt acts were only stated as evidence of the truth of the charges; the overt acts might be all proved as laid; yet, not be sufficient to satisfy a jury, that the conspiracy charged was proved; and on the other hand, he admitted they might think the charge established, although the overt acts were not all proved. He would now call the attention of the jury to the previous charges preferred against the traversers. He then read the commencement of the indictments, stating the intentions imputed to them, and then read the first charge, namely, "that they conspired to raise and create discontent and disaffection amongst the leige subjects of our Lady the Queen." Was there ever a more vague or unsatisfactory charge than that—to create discontent! If this be a crime there was an end to free discussion. How could any man convince others that an existing law was bad, and ought to be repealed, without creating discontent? How convince them that their condition would be bettered by the enactment of a new law, without creating discontent? Was any great or beneficial reform ever effected, without first creating discontent? It was absurd to allege that to be a crime. But if it were, did the jury believe that the traversers conspired to create discontent? Were they not satisfied that the common object (if any) was to procure a repeal of the union? and if some of them in furtherance of that common lawful object used means calculated to create discontent, did that support the charge of conspiracy of a preconcerted plan, not to procure a repeal of the union, but to create discontent? Certainly not. But the charge, he might be told, was to create discontent and disaffection amongst the leige subjects of the Queen, by what even the indictment does not state; but what the meaning of that charge was he was at a loss to discover. Did it mean disaffection to the Queen, which he admitted would be an offence, or disaffection to the government or constitution; or if it meant any of these things, it should have been so stated in a plain, intelligent manner. He was not quibbling. The charge should be clear and simple, that the accused might know against what they were called on to defend themselves. Nor was there any direct charge of disaffection to the Queen. No. To the government or constitution. No---only disaffection amongst the Queen's subjects. What did that mean? If disaffection to the Queen, what was the evidence of it, except that Mr. O'Connell loudly proclaimed his loyalty and attachment to her Majesty, and in terms calculated to inspire those whom he addressed with similar feelings? It was alleged that men might say one thing, and mean another. True; but those who preferred such a charge were bound to prove it. How could they judge of the thoughts of men, except from their words and actions? What were the words of Mr. O'Connell? The strongest expressions of loyalty. How

did he act when he addressed assembled multitudes? He inculcated loyalty and affection for the Queen, and his sentiments were responded to by cheers that made the welkin ring. Were the millions he addressed all hypocrites? If not; and if Mr. O'Connell had the baseness to intend what was attributed to him, namely, to create disaffection to the Queen, did he not take the most effectual means to defeat his own object? The next charge was, that the traversers conspired to excite the subjects to hatred and contempt of the government and constitution, as by law established. What is the meaning of the government?—it cannot mean the ministry. God forbid it should be criminal to canvass the conduct of the ministries of the day freely, or to expose them to contempt if their conduct deserved it; but it was absurd to suppose that ministers were meant. But was there any evidence of a conspiracy to excite to a hatred of the constitution? What is the meaning of the constitution? Surely, the government as by law established by King, Lords, and Commons. Would the repeal of the union, if carried, subvert the constitution? Clearly not; for, before the act of union, there was one sovereign, and two independent legislatures. Did the act of union subvert the constitution? It was not pretended that it did. What would the effect of the repeal of that act be? Merely to restore to Ireland her separate parliament, and leave the constitution precisely as it was before the act of union; it would, therefore, be absurd to say that that endeavour to procure a repeal of the union was to excite hatred or contempt of the constitution. The next charge was for conspiring to create hatred and ill-will amongst the Queen's subjects in Ireland, and divers of her Majesty's subjects in England. That (he said) was a most extraordinary charge, and it was new to him that it should be a crime. Let the evidence relied upon to support that charge, be considered, and what was it? Occasional passages in speeches delivered at different meetings. But they should consider what the speakers were doing, and what they intended. They were endeavouring to convince their hearers that the repeal of the union was essential to the prosperity of the country; and they were justified in resorting to past history to support their arguments; and if facts had occurred in the history of the country, calculated to excite ill-will amongst the people by the recollection of them, he deplored it. But had it been said that these facts were falsified, or misrepresented? It had not, even if expressions were some times used calculated to create ill-will when the real object was to promote the cause of repeal, that would not support the charge of conspiracy in the indictment, unless the use of such expression was the result of a preconcerted plan to excite ill-will, and not merely to procure repeal. The next charge was for conspiring to produce disaffection amongst divers of her Majesty's subjects in the army? Was that charge proved? What was the evidence given in support of it? It was precisely similar to the rest. They had proved that in one or two speeches of Mr. O'Connell he had commended the army, and they were told that, because he did so he was an arch conspirator. They had heard a publication read, which had appeared in one or two papers, and which he would not defend. It was a letter from a Mr. Power, which he would not canvass the propriety of; but he would say that it was unjust and unfair to make it evidence against others. The direct course had been abandoned, and a circuitous one adopted. They



have sought to convict one by evidence of the acts of another, although no common illegal intent was proved between them. They have taken the act of one in furtherance of a design which was lawful, and then arguing in a circle, they use what they allege to be the illegal act of one in furtherance of the common legal object as evidence against the others, of a preconcerted plan or conspiracy to effect the common legal object, by the particular illegal means resorted to by the one, which he contended was most unjust, and against all principle. If any of the publications had the tendency here stated, it should be submitted to you in another and clearer form; they should have made each man responsible for his own acts, and his own acts alone, and put the matter in a course of trial that would enable the crown to bring forward its case shortly, simply, and clearly, and state simply and clearly what their case was and their evidence, so that men of ordinary intelligence should easily see if the charge were supported or not, and enable you without difficulty to hear the case of the crown and the evidence offered in support of it; to hear the case for the defence and the evidence procured to support it, and then come to a conclusion without difficulty, and not inflict a task on you almost beyond the powers of human intellect. The next charge, and one in which, it appeared to him the greatest stress has been laid, is a charge "for causing and procuring divers subjects of our lady the Queen unlawfully, maliciously, and seditiously to meet and assemble together in large numbers, at various times, and at different places within Ireland, for the unlawful and seditious purpose of obtaining by intimidation, to be thereby caused, and by means of the exhibition and demonstration of great physical force at such assemblies, a change and alteration in the government, laws, and constitution of this realm, as by law established." I pass by two of the objects, namely, to obtain changes in the government and the constitution, and I come to that which charges them with causing large numbers unlawfully to assemble to obtain by means of intimidation, and the demonstration of physical force, changes in the laws of this country. The change of the law adverted to clearly is the repeal of the act of union, and the conspiracy alleged, is a conspiracy to procure large assemblies unlawfully to meet for the purpose of procuring that change by intimidation. That, I think, is the substance of the charge, putting it as concisely as I can. Now, gentlemen of the jury, if that charge be supported, and assuming for a moment that there was a combination to procure a change in the law, you are to keep in mind what I have said at the outset, that unless they preconcerted to do that which is alleged here to be a criminal act, the common purpose being lawful, none can be affected by the acts of the others. Where is the evidence that they procured those large assemblies to meet, and suppose there is, that those meetings were unlawful? If they were assembled for the purpose of intimidation, in the sense here intended, by intimidation, to procure a change in the law, I would admit it to be illegal; but if they were not assembled for that purpose as here laid, I deny it was illegal. I say the mere circumstance of their having assembled in large masses does not constitute illegality. I admit that if a large assemblage of persons takes place under circumstances calculated to excite alarm in the minds of firm and reasonable men, that, without reference to what the object is, may be unlawful. But I say if

men, no matter in what numbers, assemble for the purpose, as Baron Alderson laid it down, of stating their grievances, or what they conceive to be grievances, and assemble in such a manner as not to excite alarm in the minds of reasonable and firm men, I say that is not illegal merely on account of their numbers. What is proved to demonstration in this case? The indictment here states a vast number of what they call those monster meetings, commencing so far back as the 19th March, at Trim. There are stated in the indictment no less than sixteen of them, and the bill of particulars contains twelve of them, making altogether twenty-eight. You have it alleged, therefore, that from the 19th March down to the 3d of October, twenty-eight of those monster meetings took place; but you have no evidence that there was at any one of them a single act of outrage or an act tending to the breach of the peace. Have you it not proved that those meetings were attended by persons on behalf of the government and by policemen? Have you not these policemen actually taking notes of the speeches that were made at those meetings, and can it now be considered that those were unlawful meetings? You have this fact, that from the commencement to the end of this agitation—if you please to call it so—government had accurate information of every thing that occurred. Those who were concerned in those meetings anxiously, ostentatiously published their proceedings and their intention of holding those meetings, and the speeches delivered at them, and strange to say, some of the overt acts stated in this indictment to prove a conspiracy is that the editor of a paper did publish those reports. I speak it with sincerity. I do not; I cannot believe that if the government of the country, or the law advisers of the government did really believe those meetings were unlawful, they could have permitted them to continue, from the 19th of March up to October, holding those meetings without taking any measures to prevent them during all that time. I say it honestly and sincerely that I don't think it credible the government could have sanctioned by their silence those meetings if they thought they were illegal. I am sincere in saying so. I prefer no charge against the government. I don't think the men placed at the head of affairs in this country could so completely forget their duty as to remain passive, if they really believed those meetings were illegal, or that such consequences as the vivid imagination of the Attorney General depicted to you were likely to flow from them. The law officers permitted them to continue because they thought them legal; for, if they thought it necessary to interfere, and if their opinion were rejected by government, they would disgrace themselves by holding office under it. I believe that no other cause can be assigned for this than the conviction on the minds of those at the head of affairs that these meetings were lawful? What is the evidence that they were not lawful? I was startled when I heard it. The evidence produced to show that they were not lawful, is that they were quiet, and that Mr. O'Connell, at every one of those meetings, preached and inculcated peace, and that is corroborated by the damning fact that his advice was obeyed, and peace was preserved. That is the evidence of the character of those meetings. I admit that the people assembling in vast masses rendered it likely that danger might ensue, and that at the first meeting men of ordinary courage might entertain alarm, though it did not appear they did, and take measures to stop them; but each

succeeding meeting negated the possibility of injury arising from them, and gave proofs of the legality of the preceding ones. There is no other way of accounting for the conduct of the government than that they believed them to be legal. The conduct of the government would be infamous in the extreme unless it resulted from the cause to which I have attributed it. It may appear strange that I should be here defending the conduct of the government, but the facts prove that these meetings were perfectly peaceable. He said there was another species of illegality. It was alleged they were procured for the unlawful purpose of intimidation by the exhibition of physical force; but was that charge supported? He would ask could they, as honest men believe on their oath that there was any intention on the part of Mr. O'Connell to resort to physical force by such an exhibition? Did they not believe that what Mr. O'Connell again and again professed were the real and genuine sentiments of his heart—that, instead of his intention being physical force, his object was to bring conviction to the mind of the minister by this public expression of the people's sentiments? He would ask after all they had heard from those eloquent persons who had preceded him as to those meetings, was not the real object to convince the government of the country as to what were the real sentiments of the Irish people? Could they believe that Mr. O'Connell intended to march with the repeal wardens, with their peeled wands in their hands, to encounter the artillery of Britain, or to assail the House of Commons, or that he had, by such means, any idea of inducing the minister of Great Britain to believe that he was to apprehend an outbreak by physical force. The whole life of Mr. O'Connell belies such a charge. If ever there was a man who wielded such extraordinary power over his fellow-man, there was no man to be found who shrunk like him, even with abhorrence, from the idea of shedding one drop of blood, or more sincerely condemned the use of violence or physical force, or the commission of any crime. His whole life belied that charge. The whole progress of that agitation which ended in the successful issue of emancipation, and which proved to him the great and beneficial effects flowing from the preservation of peace in the advocacy of that cause he had undertaken. His great design appeared to be to make that moral demonstration which no minister in his senses could possibly disregard. Mr. O'Connell had done nothing wrong nor illegal to ascertain the true opinion of the country—there was nothing wrong to exhibit what that opinion was—there was nothing wrong in communicating that opinion to the minister of the day, and he would be a weak minister who would exclude such information from his cabinet. He would be insane who would shut his eyes and ears to the acts and voice of a nation—he would be worse than insane if he knew what a nation wanted, and yet would venture to disregard it. But what were the means pursued at those meetings? He found that the speeches were publicly published—they did not merely assemble men to ask their opinion, but they discussed the question, and they assigned their reasons, and they published these reasons—they let them go forth to the public without reserve. He was not there to answer for the validity of those reasons, but let them be answered by something else than a state prosecution. Let the parliament of Great Britain decide on the merits—let the assembled intelligence of Britain do so; but such a

prosecution as the present would not do it; for he felt firmly convinced that the result of that prosecution would be, no matter what it would be in that court, to promote rather than repress what it was intended to destroy. He trusted, whatever were the result, that he would not live to see the day when free discussion would be put an end to by means of a state prosecution. The next charge was, that the traversers conspired to bring into hatred and contempt the courts as by law established in Ireland for the administration of justice. He now alluded to the arbitration courts, but he did not intend again to repeat those arguments so strongly urged by Mr. Whiteside as to the legality of the proceedings there. But if it were the opinion of the jury that the object of proceedings there was to enable parties to obtain cheap justice, surely there was not crime in that. It was absurd to say that to recommend men to submit their disputes to their fellow-men was calculated to bring into disrepute the constituted courts of the land; it was absurd to say that to make a complaint against the superior courts was a crime, for if all the proceedings of the superior courts were not openly canvassed, should we have had any of those beneficial reforms which had taken place? Was it not by exposing the mischievous exactions to which suitors were often obliged to submit that advantageous amendments had taken place? It would be monstrous that when men justly complained of the enormous expense which may be incurred by resorting to the superior tribunals, that they could not be recommended otherwise to settle their disputes, when in carrying out that recommendation nothing was done but by the consent of the parties concerned. He hoped, therefore, they would not be esteemed guilty of any offence, for he often recommended men himself, perhaps unwisely, not to go to law, but to submit their disputes to the adjudication of others besides those constituted by law, and he should be glad to see the legality of the proceedings before the arbitrators, submitted to another test, namely, by an action of debt in the court of Queen's Bench, upon one of their award, and he had little doubt as to the result. He must now call their attention to the 11th count, stating that certain of the traversers "conspired to cause and procure large numbers of persons to meet and assemble together in divers places, and at divers times, by means of unlawful, and seditious, and inflammatory speeches and addresses, made and delivered at the said several places on the said several times respectively, and also by means of divers unlawful writings and compositions"—to what? "to intimidate the lords spiritual and temporal, and commons, in parliament assembled, and thereby effect and bring about changes and alterations in the laws and constitution of the realm." If the charge, as to physical force, could not be sustained, how ridiculous was it to say that the object in assembling, and delivering speeches was to intimidate? He had now gone through the charges preferred in the indictment, and he would ask them (the jury) whether they were satisfied in their consciences that any one of those charges had been substantiated? Was there evidence to satisfy them that there was an arrangement, or rather conspiracy, to do any of the illegal acts specified? He confessed, that at times during the progress of the trial he had been literally disgusted with his own profession; he felt grieved when he found men of information, and unquestioned honour, resorting to that species of argument which they had heard in this case. Gentlemen came prepared with

arguments to meet every possible view, and to draw the same conclusions from directly opposite facts. If there had been any disturbance at any of these meetings, or any violent expressions used, such as, "Down with the Queen," "You must swear never to be a Queen's man," as in Hunt's case—with what justice the counsel for the crown would have relied on these things as proof of guilt—but if so, was it just to rely on their absence as equal proof—and even treat the tranquillity that prevailed as an aggravation of the supposed offence? I shall now call your attention to the speech of Mr. Steele, set out in the indictment, and which, as it is short, said Mr. Henn, I shall read to you:—"Sir, I request to have the honour to second the resolution of the Liberator; inasmuch, as I have expressed, from the first, very strong opinions with respect to the Loughrea meeting. I have, from the first, considered that meeting of more national importance than Mallaghmast, on which—

"Behemeth, biggest born of earth,  
Upheaved its vastness"—

and for the cause assigned by the father of his country, it was the first meeting showing that the national spirit of Ireland was not to be broken by the Duke of Wellington or Peel, who have traitorously made their Sovereign the mouth-piece of their villainy, and they have followed it up, until they have made her the subject of a caricature in her own capital. I here look at the caricature of the Queen, by that inimitable artist H. B., in which the Queen is represented as a duck taking the water, with a bonnet on its head, swimming over to France, with Louis Philippe, the perjured tyrant, waiting to meet her. It was represented to be a mere voyage of pleasure; but every man who has common sense understands, distinctly, why she was sent by Peel and Wellington, namely, in the undignified position of her own ambassadress, looking (without any inuendo) one day to France, and another day looking to Belgium, for the purpose of propping up the fallen destinies of England, Peel, and Wellington, who dared to give that threat, were met by the defiance at Mallow of O'Connell; he defies them." At any one of the meetings were any expressions used calculated to support the charge of conspiracy? He begged the jury to keep in mind the facts that before they pronounced a verdict against any of the traversers, they must be satisfied beyond all reasonable doubt that the said traversers or some of them did conspire together, not merely to procure a repeal of the union, but to do those illegal acts specified in the indictment, or some of them. On what did the Attorney General mainly rely? He said, "True it is these meetings were all very peaceable, true it is there was no outbreak, true it is there was no indication of the slightest breach of the peace; but I say that the object was different from that proposed. True it is that as yet no mischief has ensued---why? because fortunately I have put a stop to agitation. I know that there would be an outbreak, and so by a crown prosecution I prevent it." He (Mr. Henn) recollected hearing of a learned gentleman once stating in addressing a jury—Gentlemen, I smell a rat—I see it brewing in the storm; but, please God, I will crush it in the bud" (laughter). But now to make more particular reference to his client. Mr. Steele avowed that it was his highest privilege to

approve of every act of Mr. Daniel O'Connell, and he would not permit him (Mr. Henn) to stand there as his advocate were he not now, on his part, to repeat the assertion. When I came to this part of the indictment I pictured to myself three sages of the law assembled in solemn conclave over this speech of Tom Steele; at this time, gentlemen, my friend Sargeant Warren was enjoying the luxurious repose and tranquillity of Chancery--his soul was not then disturbed by those frightful visions which the lively imagination of the Attorney General had conjured up, in short, he had not then joined the conspiracy. I fancied the delight with which they read it, and I feel assured they found as wise an opinion upon it as the sapient Dogberry himself could have pronounced. I will tell you, my Lords, what put Dogberry into my head. I remember when I was in college I learned that one of the helps to memory was the concatenation of ideas; and, now, when I thought of those three gentlemen pondering over this speech of Mr. Steele's, the name of one of Shakespear's plays naturally occurred to me; gentlemen, it was "Much ado about Nothing;" this, of course, reminded me of Dogberry, and then I recollect how a certain witness deposed that he had heard Conrad say that he had received 1,000 ducats from Don John for accusing the Lady Helen wrongfully--"Flat Burglary" says Dogberry. So, when the learned counsel read this speech, "Treason" said the Attorney General, "Sedition" murmured the milder Solicitor, "Flat Burglary" said Mr. Brewster, and having all agreed that it was decisive proof of conspiracy against Mr. Duffy, Mr. Tierney, Mr. Ray, and the others who knew nothing at all about it, they forthwith resolved to insert it in this monster indictment. The scissors were put in requisition; and, yet, I can imagine what the feelings of the clerk employed must have been; the Solicitor's recording angel with the scissors blushed as he gave it in, and I should have thought that the gentle and compassionate nature of the Solicitor himself would have induced him to drop a tear upon it, and blot it out for ever, but fate ordained it otherwise, it was removed from an ephemeral journal where it must soon have sunk into oblivion, and immortality was conferred upon it by transplanting it into this indictment, and there it is, a lasting memorial of the eloquence of Tom Steele, a convincing proof of the treason of H. B., satisfactory evidence of mildness and mercy of the Attorney General in not including him in the indictment, and a perpetual record of the wisdom of this state prosecution; but, gentlemen, is there not some argument in this levity? Was it not preposterous to introduce this speech into the indictment as an overt act and evidence against all the traversers of the conspiracy to do the illegal acts charged against them? And now, to be serious, gentlemen, you have a momentous duty to discharge, and beware how you do anything to check the freedom of discussion; beware how you close what have been well called the safety valves, for it is frightful to think what may be the result of the compression of the steam. This trial has excited great interest throughout Ireland, it has excited great interest in England, and the interest excited by it extends beyond the limits of Great Britain, and throughout all civilised Europe; there are hundreds of thinking men, in various countries, watching the progress of these proceedings, anxious to ascertain if the freedom of dis-

cussion, of which they have heard so much, exists, in fact, in these countries, or is merely nominal, an unreal mockery; and whether the trial by jury is really that safeguard of the liberties of the people, which Britons have so often proudly asserted, or the assertion of a vain-glorious boast. But, gentlemen, I have no apprehensions as to the result—I have the most perfect reliance on your intelligence, and your integrity. I feel satisfied that the foul mists of political prejudice that pollutes the atmosphere abroad, has not been permitted to enter within the sacred precincts of this sacred temple; and that you have brought your minds to the consideration of this case, as unaffected by those prejudices as the judicial ermine itself is free from taint. Prove this by your verdict, that there is not on this earth a tribunal to which the accused, no matter what his creed or politics may be, can look with greater certainty for impartial justice than to a jury of twelve Irish Protestants.

The learned gentleman resumed his seat.

---

#### EIGHTEENTH DAY.

Mr. O'Connell arrived a short time before the court sat, and took his seat in the side bar.

The jury and traversers having been called over,

Mr. O'Connell rose and said—Gentlemen, I beg your patient attention while I show you, in as few sentences as I possibly can, and in my own plain and prosaic style the right I have to demand from you a favourable verdict. I ask it without disrespect and without flattery—I ask it on the ground of common sense and common justice—upon these grounds I demand your favourable verdict, being thoroughly convinced that I am plainly entitled to it. I do not feel that I should have been warranted in addressing you at all after the many speeches you have already heard, and that powerful display of talent that so delighted, as well as, I trust instructed you; but I do not stand here my own client. I have clients of infinitely more importance. My clients in this case are the Irish people—my client is Ireland—and I stand here the advocate of the rights, and liberties, and constitutional privileges of that people. My only anxiety is lest their sacred cause—their right to independent legislation—should be in the slightest degree tarnished or impeded by anything of which I have been the instrument. I am conscious of the integrity of my purpose—I am conscious of the purity of my motives—I am conscious of the inestimable value of the object I had in view—the repeal of the union. I owe to you I cannot endure the union; it was founded upon the grossest injustice; it was based upon the grossest insult—the intolerance of Irish prosperity. This was the motive that actuated the malefactors who perpetrated that iniquity; and I have the highest authority—the ornament for many years of that bench, but now recently in his honoured grave—that the motive of this proceeding was “an intolerance of Irish prosperity.” Nor shall I leave that on his word alone. I have other authorities for it, with which I shall trouble you in the course of as brief—for I am exceedingly anxious to make as brief an address as I possibly can. I am not here to deny anything I have done, or here to palliate anything that I have done. I am

ready to re-assert in court all I have said—not taking upon myself the clumsy mistakes of reporters—not abiding by the fallibility that necessarily attends the reporting of speeches, and, in particular, where those speeches are squeezed up together, as it were, for the purpose of the newspapers. I don't hesitate to say that there are many harsh things said of individuals, and clumsy jokes that I would rather not have said, but the substance of what I have said I avow, and I am here respectfully to vindicate it; and as to all my actions I am ready not only to avow them, but to justify them. For the entire of what I have done and said was done and said in the performance of, to me, a sacred duty—the endeavouring to procure the restoration of the Irish parliament. If I had no other objection to the union, I would find one in the period in which it was carried—it was a revolutionary period. The nations of Europe were overwhelmed by a military power, inspired as it was by the infidel philosophy of France. At that period almost every country in Europe was torn from its legitimate sovereignty—people were crushed—princes were banished—kingdoms and states were altered—it was a revolutionary period; but, alas, a day of retribution and restoration has come for every other country but this. What has since happened has fortunately restored the natural, or at least the political order of things in other countries—every country has its day of retribution and restoration—save only Ireland. Ireland alone remains under the influence of the fatal revolution of that period, and you are assembled in that box to prevent justice being done to Ireland as it has been to other countries. This is not the time to discuss how you were put into that box—nor is this the place to get any remedy on that subject. I do not assert the Attorney General had anything to do with the matter but what the law allowed him to do, and over which the Court had no control. If wrong had been done, the remedy lay elsewhere; where if right was violated, it may be redressed—but here I am put to address you without either discourtesy or flattery, as the species of tribunal I am about to offer my arguments. It is quite certain there is a considerable discrepancy of opinion between you and me; there can be no doubt of that—there is a discrepancy on one subject, and one of the utmost importance—we differ as to the repeal of the union. If you had not so differed you would not be in that very box. You also differ with me on another most important subject, and that is on the subject of our religious belief. If you had been of the same faith as me, not one of you would be in that box; and these differences are, perhaps, aggravated by the fact that I am not only a Catholic, but that Catholic who was most successful—and I can say it without boasting, for it is a part of history—in putting down that Protestant ascendancy of which, perhaps, you are the champions—certainly you were not the antagonists—and in establishing that religious equality against which some of you contended, and against which all your opinions were formed. This is a disadvantage which does not terrify me from the performance of my duty. I care not what may be the effect as regards myself—I care not what punishment it may bring down—I glory in what I have done—I boast of what I did. I am ready to defend all I have succeeded in accomplishing. I know I am, gentlemen of the jury, in your power, but I ought to be in the power of jurors of honesty, and of integrity, and I appeal to you as such. There are points on which we



essentially differ. The first is, the repeal of the union—and you are all aware of my former conduct respecting Catholic emancipation; but you are there to administer justice—you are there to do what is right between all parties; and while I remark those things, it is not because I despair of your doing me justice. I would, however, prefer not being harrassed with the thought that by any possibility, either by the infirmity of human nature, or from any cause, other ingredients should enter into your decision. Gentlemen, I now have done with you. I pass on to the consideration of the case itself; I come to the prosecution. It is a curious prosecution; it is a strange prosecution; it is the strangest prosecution that was ever instituted! It is not one fact, or two facts, or three facts. No; while that for which our criminal law is most lauded, is the simplicity with which a particular fact is tried, so that the jury may be disembarassed from everything else; here is the history of nine months you are to go through. Here you have a monstrous accumulation of matter flung before you; and I defy the most brilliant understanding that ever ornamented a court or a jury to disengage what may be of importance, from that which may induce an unfavourable result, but which ought not legally to do so. The great difficulty is to bring such a quantity of matter before you. In doing so your memory fails; and it is worse than a failure, as it is apt to recollect what may be strong and striking, while it may forget that which should make an important consideration—these parts which are explanatory and mitigatory. I arraign this prosecution, not in the spirit of hostility or of anger, but on constitutional principles—the impossibility of any jury, so disengaging that mighty mass of matter now before it, to find out what was really the question to determine. Let me now see whether I can help you in that. I will endeavour to see how much of the affirmative there is in this prosecution, and how much there is of negative quality in it—that is, what it is, and what it is not. The entire strength of this prosecution consists in that cabalistic word “conspiracy.” If I look to any dictionary for its import; or if I ask common sense, I find it means a secret agreement among several to commit a crime. That is the common sense view of it, as well as its dictionary meaning. A private agreement among several to commit a crime; but this word, in recent times, was taken under the special protection of the bar. They have not only considered it an offence to conspire to commit a crime, but they have but two books on their line—so to divide the subject as to make it a crime to seek for a criminal result on the one hand, and on the other hand to make it a crime to seek a beneficial result by illegal means. I do not think there is much of justice in the second branch, if at all brought into consideration, unless it was so clear and so distinct as to substantiate the offence. We will now take this conspiracy; let us see whether there are any negative qualities in it as to the evidence produced by the crown. It is admitted by the crown itself in this case, that there was no privacy; no secrecy; no definite agreement whatever to bring it about; but, above all, there was no private agreement, no secret society, nothing concealed, nothing even privately communicated; there was no private information; nay, not one private conversation; everything was open, avowed, proclaimed, published. A secret conspiracy! which there was no secret about; all lay openly

proclaimed, and openly published; whether in the *Dublin Evening Mail* or *Dublin Evening Post*, for all has been raked out of that secret abyss of all secret channels of communication, the public newspapers! Really, it is quite too harsh a thing for one to be called on to defend himself against a conspiracy so perpetrated, committed in open day, and committed by public announcement, with the ringing of bells, to know who would come as witnesses to the conspiracy! To be a conspiracy there must be an agreement; but, whether private or not, that is another question; but I insist on it, there ought to be something to conceal, and will admit that it should not be in the presence of the legal authorities, nor in the presence of her Majesty's Attorney General, the Solicitor General, or any of the learned Sergeants. Really, see what a monstrous thing it is to call that a conspiracy which everybody in the world might know, and which all might witness! Some persons had formed the arrangements. The meetings were occasionally attended by Mr. Such-a-one one day, and by Mr. Such-a-one another day; on the third day Mr. Barrett was there; Mr. Duffy, once or twice, thus spelling out the affair in that way. In common sense could it be endured that such should be denominated a conspiracy? A conspiracy! Where was this agreement made; when made; how was it made? Was it made in winter or in summer; in spring or in autumn? When was it attended; on a Sunday or on a week-day? Can you tell me the hour of the day, or the month, or the day of the month? Can you tell me any one of the three quarters of the nine months? Who was by; who spoke; who made the arrangements; who moved and seconded the resolutions? Gentlemen of the jury, I appeal to your common sense; to your reason. Place yourselves for one moment in my position, and you were addressing a Catholic jury; look for one moment and see—how?—with what?—I will not say with indignation; but with what high feelings of conscious integrity you would laugh with scorn their daring to find you guilty of a conspiracy, under such circumstances. You have not, in this case, the slightest shadow of a concoction; you have not one particle of that which should belong to a charge of this sort. I do not even know, from this proceeding, whether I was present at this conspiracy or agreement, either public or private. Ought I not, then, to have the advantage of an *alibi*? If you were to run over the nine months of this conspiracy, it would be a kind of toss-up to know whether I was there or somebody else—to know who was at any conspiracy meeting, and to find out whether this agreement was in writing, or whether it was a mere parole agreement. I want also to know has any one told you when, where, or how, our criminal agreement was made? If there were an action in the Nisi Prius Court, and you were the jury in the box, and that the question was one of plain contract, is there any possibility of your not finding a verdict on a contract which was not given in evidence? But here there is nothing of the sort. I remember it being once said to a judge by a lawyer—"Oh, my lord, it would not be evidence on a ten pound promissory note, but it might be evidence in a criminal case where you presided." Your lordships might have heard that such a thing was once said, but I will only say to you that it would not be evidence to prove the 10*l.* contract; they should get the definition, if right, it should be the bill of particulars. Such a definition, as agency and conspiracy,

and not to be at last in the bill of particulars. I do not mean to profit by the circumstance, but I say it is not in the bill of particulars; and therefore if they attempted to give it in writing, without mentioning it in the bill of particulars, they would undoubtedly have shut out from the beginning all evidence. Shall they escape your honest view of such a subject as that of conspiracy; and if there had been a conspiracy it would be proved, that the only reason why it is not in all its details, and all its circumstances is because it did not exist. What are they to do? The Attorney General, forsooth, leaves it to you: the agreement ought to be in reality; it is an imaginary one, and you are to find that the imagination is a reality, and find me guilty because you imagine it. I do not wish to speak disparagingly of the Attorney General: no man is less inclined to do so than I am---on the contrary, my lords, I admit the ingenuity with which he stated the case. I admit the talent he displayed---the industry he evinced throughout. He was eleven hours at it, eleven mortal hours. When did he tell you of the conspiracy? "Oh!" said he, "wait awhile, wait till I come to the close, and, when I do come to the end, go back to the beginning (laughter), and find out the conspiracy;" and allow me to say, that if any gentleman could have found out the conspiracy, it would have been the Attorney General. Yes, he did take eleven hours in throwing out that garbage to the jury. "There," said he, "is the *Pilot*, the *Nation*. Here are speeches and publications---now find out the conspiracy. The case is good enough for you to make out the conspiracy." I remember a case on the Munster circuit in which the celebrated Mr. Egan was engaged for the defendant. It was stated by Mr. Hoare, a gentleman of dark appearance, who made a very powerful speech on the merits of the case. Mr. Egan, who was sure of his jury, and all he wanted was an excuse for them---"Gentlemen of the jury," said he, "surely you will not be led away by the dark oblivion of a brow" (laughter). One of the counsel who sat near him said, "Why, Egan, that is nonsense." "To be sure it is," was the reply, "but it is good enough for the jury (laughter). So the eleven hours are good enough for you. Oh! it is nonsense, it is criminal nonsense, to call that conspiracy which takes eleven hours in the developement! Hardy was tried for constructive high treason. At the anniversary dinner, which always took place in celebration of the integrity of the jury, one who had been a jurymen in the case, was in the habit of attending, and when his health was drunk, always made the same speech, to the effect that he was not accustomed to public speaking, and in the course of such a speech he would say---"Mr. Chairman, I will tell you why I acquitted Mr. Hardy. The counsel was eleven hours stating the case; there were eight or nine days occupied in giving evidence. Now I know that no man could be guilty of treason when the case could take so many words, and such a length of time to prove, so I made up my mind to acquit." Now, what necessity could there be for the Attorney General to ransack newspapers to make out a case of conspiracy against the crown? If the case was a good one, depend on it the Attorney General has talent enough to tell you all in one hour and a-half at the utmost. Give me leave to say, and by what I am about to state I mean to signify no disrespect to the counsel for the crown, I consider myself, although I am not here with my wig and gown, a barrister still, and I

have a fellow-feeling for the profession; but give me leave to say that the Attorney General unquestionably would, could he have done so, have shown you the when, the how, and the manner; he would have pointed out all the particulars of this pretended conspiracy. But what has he shown you? Nothing; and he leaves the case in your hands, thinking that it is quite good enough for you. There is no privacy or secrecy even imputed. You have nothing to conjecture—there is nothing to suppose that happened in private—nothing at all. The entire is before you, and, therefore, as you know all, I say that there never was a case in which the Attorney General so signally failed in as the present. You may remember when this trial was about to commence, the whole country was full of rumours. It was said that something dark and atrocious would come out; that there was a clue to everything. Why, my lords, I do solemnly assure you that no less than seven gentlemen have been pointed out to me after this mode; there is Mr. So-and-so, one who was seen with Mr. Kemmis's officer; that man was at the Castle; that man was with a barrister, whose house is not far distant from yours in Merrion-square. "Don't," it was said, "associate with Mr. So-and-so; keep him at arm's length; he is treacherous; he has betrayed." I repeat it, that no less than seven persons have suffered in their characters exceedingly by the allegation that they were in fault. My answer was, "they have nothing to betray; much good may it do them; they will invent." Now, it is an acknowledged fact, that informers who have no truth to tell, invent. Now, I ask, after all the rumours which have been afloat, did you not, every one of you, expect, when you came here, to learn something; did you not expect to have some plot discovered; to hear of some secret proceedings; to hear some private conversation regarding the traversers given in evidence, influencing and altering the nature of their public acts? If you were so fortunate as not to expect this, you certainly have not been disappointed; but if you entertain the expectation, was ever disappointment so complete and unmitigated? Go where you please and you will hear it said, "Oh! is that all the Attorney General has done?—has he nothing more to say?—we knew all that before." A conspiracy!—this is a conspiracy! Aye, gentlemen, what has become now of the dark designs, the stratagems, the foul conspiracy, the government chimeras dire of the imagination? What has become of them? They are vanished; there is nothing new; there is nothing disclosed; there is nothing to be concealed. It would have been the duty—I don't deny it—it would have been the duty of the government to obtain, by all fair means, evidence of a conspiracy, if such a thing existed. Gentlemen of the jury, they had inclination to give such proof, but they could not. You perceive with what interest they forward every part of this case; but, above all, the strong and striking interest they have to discover evidence of real facts, of existing facts—with what interest they would hunt out the conspirators, and follow them to their caves and recesses! Every power, all that influence, and wealth and authority could do, has been exerted. The expectation of promotion has been ventured; promotion in every department; every temptation held out, but all in vain—for one very plain and simple reason—there was nothing to betray; and you know that! Well, then, what is the evidence?

If there was nothing new, let us ask what the evidence is. "The life," they say, "of an old coat, is a new button." What does the evidence consist of? First, meetings---next newspapers. They spell out an undefined conspiracy, that conspiracy existing in the imagination, a conspiracy without position or time; and to prove that conspiracy they produce accounts of meetings and volumes of newspapers. We will consider each of these consecutively. First of all, you will allow me to make this observation: there is nothing secret. I ask you what could tempt me, an old lawyer, to enter publicly into a conspiracy? I boasted that I kept the people free from the meshes of the law---I say that I boasted of this. You have heard the statement read at least twenty times. I boasted of preventing men from violating the law. Now, do any of you believe that, after this, I could enter into a public conspiracy? You might say, if there was something private---something secret, you might then say, "the old lawyer thought he would be secure of his co-conspirators;" but there is nothing secret. Under all these circumstances you may, perhaps, have a more terrible opinion of me than those who I will venture to say know me better. You know me principally through the medium of calumnies and abuse heaped upon me by those parties against whom I am opposed, but there is not one of you can consider me such a blockhead, such an idiot, as that I should publicly conspire to ruin the cause which is nearest to my heart---to ruin a cause which has been the darling object of my ambition---that I should ruin the prospect of that for which I refused to go on the bench, and the offer of being the Master of the Rolls. It is a question whether I did not refuse the Chief Baronship before ever it was offered (laughter)---but there is no question that I did refuse the offer of the Mastership of the Rolls. Gentlemen, I know that I have but a short time to labour in my vocation here, and that there is an eternity on which I must soon enter. I approach that judgment which cannot be long postponed, and do you believe that under such circumstances I would be guilty of that with which I stand charged? Ah, no, you do not think I would have the cruelty, the folly, to enter into such a conspiracy. You do not believe I would have the absurdity to enter into that conspiracy. As Irish gentlemen, put your hands to your hearts, and say do you believe it? I am sure you do not. Pardon me if I have taxed you too closely; but I will say there is not one of you can spell a conspiracy out of all that was laid before you during the eleven hours in which the Attorney General was ringing changes on that word---going backwards and forwards from meeting to meeting, and from policeman to policeman, in coloured clothes, and out of coloured clothes---not one of you can believe that any such conspiracy ever existed. I proclaim, firmly, you cannot believe it. I know your verdict may imprison me, and shorten the few days yet before me, but it cannot take from me the consciousness that I am entitled to your acquittal, and that there is not a man of you who would pronounce a verdict of guilty that would not himself be conscious of it being a---mistake! Perhaps what the Attorney General wants you to believe is, that I was a conspirator without knowing it---that I *fell* into a conspiracy as a man falls into a pit might without knowing it was there. *This* was in the open day; I saw the pitfall; everything was clear, and if you believe anything against me

you must believe I was a conspirator without knowing it—a conspirator ignorant of conspiracy; and that is the question you are selected to try? In the technicality of law, I would say that even in that case there could be no guilt, for there can be no guilt without guilty intentions. But I scorn to make points of law, as a matter of common sense this is plain and obvious, and, I trust I may say, irresistible. Oh, this is a curious invention—this sweeping conspiracy of the Attorney General, it has been so powerfully put to you already, that I shall not repeat it at any length, that there would be an end to every great movement for the amelioration of human institutions if you were to concede to the Attorney General a conspiracy which has neither been stated nor proved. It is a new invention made at this side of the water. Some exceedingly sagacious person here first dreamed of it; and you were to be put as it were into a sleep with this incubus—this imaginary conspiracy—conspiracy resting on your consciences and minds. Why was it not sooner invented? There was the slave trade—would that ever be abolished if the Attorney General's doctrine of conspiracy had been enforced as law? Would it ever have been abolished if the judges of the King's Bench in England had given this doctrine of conspiracy the sanction of their authority? The advocates of the abolition of the slave trade had their public meetings—they had their monster meetings—they had their aggregate meetings—they had their private meetings; they published the guilt of the West India planters, and the cruelty of the slave owners; they made themselves bitter, unrelenting enemies by so doing; for it is astonishing how much malignity arises from that inherent, unhappy propensity in man for power and authority. There never was a more formidable party than that which was arrayed against the friends of the slave. They might have looked in the newspapers, and found every species of guilt charged against them by Wilberforce and others. Why was not Wilberforce accused of conspiracy? That man who wrote his name on the most brilliant pages of history and of sacred humanity—who will be revered as long as worth, generosity, and piety are in the world! Oh! he might have stood, as the humble individual before you stands, accused of conspiracy, because he sought to put an end to the thralldom of the slave! The venerable Clarkson, who is still alive, might also be charged with conspiracy, and thus rendered unsafe in his honoured old age. Ah! gentlemen, do not presume to interfere between humanity and its resources. Do not venture to arrest the progress of any movement for the amelioration of the institutions of the country. Do not attempt to take away from your fellow subjects the legitimate mode of effecting useful purposes by public meetings, public canvassing, speaking bold truths boldly and firmly. Shut not men up in dark corners, drive them not into concealment, send them not back into conspiracy, for then they would really conspire. In the name of Wilberforce and Clarkson I conjure you to dismiss from your box with honest and zealous indignation every attempt to prevent the millions from seeking peaceably and quietly to obtain an amelioration of existing institutions. There may be a little ingenuity displayed in reference to this comparison of the present movement with that for the abolition of slavery, and a distinction may be taken. There is a distinction, but the principle is the same. The next conspiracy was for

the abolition of slavery itself. I rejoice that I was a sharer in that conspiracy. I care not though the gloom of a prison should close over me, my heart rewards me with the consideration that humble, ungifted, and undistinguished as I am, I had the honour to belong to that conspiracy by which slavery was abolished! I attended meetings for that purpose, and poured out, perhaps with more talent than the inspiration of liberty could ever give for anything else, my indignant load of contempt on those who practised slavery and trampled under foot the humanity and kindness of our nature. I had a share in that movement. How would they have started if this doctrine of conspiracy was sooner invented, and the slave bound for ever, till somebody with milk-and-water accents—with mild tea-table talk endeavoured to persuade some one to abolish it (laughter)—until some one went to America and spoke soft things to the owners of the negroes, and, having in as gentle a way as possible insinuated the atrocities practised towards the slaves, then, by-and-bye to coax the owners, and win upon them to consent to the abolition of slavery! Gentlemen, it was the calling down of public indignation—the rousing of all that was virtuous in the public mind, and that Heaven-descended spirit of persevering, open, bold humanity that shook off the fetters of the negro, and re-established him in freedom! What would become of reform in parliament if such demonstrations of public opinion had not been made? Was there a man among the Whig aristocracy that did not approve of it, and join in such demonstrations? Were there not great meetings held? You have heard of the Birmingham meetings, and hundreds of other meetings for the purpose of obtaining parliamentary reform? What reform in parliament could be obtained without such meetings? Would the additional reform promised in the Queen's speech ever be carried, if Ireland had not assembled in her countless thousands? And in Ireland the agitation for repeal had already extracted promises of good for Ireland, even from those who had been the enemies of the restoration of the Irish parliament. At the time of the agitation for Catholic emancipation, the most eminent lawyer of that period—and the Attorney General will not think that I pay him no respect when I say he was his superior—certainly his equal. He was an eminent lawyer, and had a strong, and perhaps conscientious, antipathy to Catholic emancipation. I do believe there was no more decided or honest opponent of that measure than Mr. Saurin. He thought the law was violated by that agitation. He prosecuted some of those engaged in it. He was defeated in one trial, and he succeeded in another. But would he ever dream; would he, in the very wildness of imagination, think of turning the efforts made for Catholic emancipation into a conspiracy? I was prosecuted for words spoken; my friend on my left (Mr. Sheil) was prosecuted for words spoken, but the Attorney General never thought of violating the constitution by turning those efforts for emancipation into a conspiracy. Yet had not we our county meetings—our simultaneous meetings? Did not, on the 13th January, 1829, all the Catholics of all the parishes in Ireland meet? Was that evidence a conspiracy? Upon one day every parish in Ireland met. On one day they proclaimed a determination to persevere till they obtained religious equality. No man ever dreamed of turning that into a conspiracy. It was reserved for our time—it was reserved for our day—it was reserved for the glory of the present Attorney General to

have found out that which none of his predecessors could possibly discover. Gentlemen, at the present moment a very serious question was in agitation in England, the corn law league. I care not what your opinions are with regard to that question—I mean no disrespect—they say the object of that league is to obtain cheap bread for the poor, and an increased market for labour. I do not mean to argue the point with you; we have enough of our own. They have held many meetings—they have used the boldest language, and the Rev. Mr. Fisher has accused them of inciting to assassination and incendiarism. We are free from that accusation—we are free from the slightest imputation, and is this case to be sent over to England to put down that glorious struggle? And is the attempt to give cheap bread to the poor to be turned into a conspiracy? Oh! no, gentlemen, no! the English are safe in the glorious integrity of their jury box; there won't be a single jurymen sworn to try them who differs with them in political opinion—there won't be a jurymen sworn who even differed with violence upon any principle with the traversers. No; the Englishmen are safe—I was wrong in saying they were in danger—the Englishmen are safe in the protection of their jury box—no jurymen will there be impanelled who was brought up in virulent prejudice against the religious faith of the accused: and, do you, gentlemen, protect us as the English protect them. Indeed it is manifest, if the Attorney General triumphs in this case, no great grievance can be redressed. When authority and power are interested it requires a more cogent argument than justice to obtain relief, and it is only obtained by the power of public demonstration, and the accumulated weight of public opinion. A French author said—I do not quote him as an authority, for no man hates French infidelity and French republican opinions more than I do—but a French author said that “You cannot make a revolution with rose water.” He would make it with blood—I would make it with public opinion, and I would put a little Irish spirit in it. But I come to the *menagerie* of evidence which sustains this case. I told you there were two classes of evidence—if I am not wrong in using the word evidence—that is monster meetings and newspaper publications—we will take each of them by itself. I am not here to deny that these meetings took place. I admit that they were held. I admit that the people attended them in hundreds and hundreds of thousands, but it has been said that the magnitude of these meetings would alone make them illegal. I do not discuss that question. I do not give it weight enough to do so. I scorn to discuss it. But I again admit that they took place, and I will ask you was any life lost at any of those meetings? You will answer no!—not one! Was any man, woman, or child injured? You will answer no!—unanimously no! Did anything happen to any living thing so as to injure it in the slightest degree? Was there a single female young or old exposed to the slightest indelicacy? Was there one shilling's worth of property destroyed at any one of those meetings? You answer no!—unanimously no! Oh, but I forgot—there was a policeman in coloured clothes who described a ferocious assault made by the people coming in from Carlow, which very nearly overturned the ginger-bread stand of an old woman (laughter)—and the amount of violence perpetrated was, not the overturning, but the nearly



overturning, a ginger-bread stand. If there had been any violence committed would we not have heard of it? would it not have been proved by the policeman or magistrates who attended? Oh, gentlemen, it is ridiculous, that is, it is the prosecutions which are so. There was no violence, no battery, no assault, no injury to property, not the least violation of morality, or even of good manners. Not one accident happened at one of those meetings; not even a casual accident; and if I incited the people, and had them ready for rebellion, would they have been thus restrained? and would they not have committed outrages by which their feelings would be manifested? But no!---so completely were they devoid of ill feeling, so completely had every harmonising influence sway over them, that grown mothers took their daughters, and young mothers carried their infants with them as their best and surest protection. Oh, it would delight you to have seen them!---the men stood back for them to pass!---the mothers and daughters knew they had their husbands and brothers there, and, so help me, Heaven!---I withdraw the violence of expression, and I say, that there could not have been a more convincing and triumphant evidence of the total absence of irritation or violence than the kind of feeling which they evinced. I turn boldly and say the world does not produce any other country where such meetings could take place. They could only occur among this calumniated people, who, according to the *Times* are "a filthy and felonious multitude." Yes; there are no people on the face of the earth, except the Irish people alone, who could afford such a specimen of moral dignity and elevation. They have been educated to it, forty years have they been so, the emancipation educated them, and now they are sublimed into peaceful determination. They will not be ruffled by anything which may have happened in this court. They will abide your verdict: they may disapprove of it if it is unfavourable, but they will not be guilty of the slightest violation of the law. But was any one intimidated by those meetings? They could have produced magistrates or policemen, one by one to prove their intimidation. They could have produced the most timid, either in pantaloons or petticoats, to prove there was intimidation. With the most ample means of proof, there is the greatest absence of evidence. My lords, I appeal to your lordships if there was one particle of intimidation—is there one particle of such evidence before you? And is it not thoroughly certain that it is so only because such evidence is not in existence? Gentlemen of the jury, it is not that alone—it is not purely inferential---the police were at the meeting; they might have asked if any one complained to them; whether the most timid person in the neighbourhood or vicinage expressed alarm or apprehension. They asked them no such question; it had been answered already. Now, my lords, there was another feature in those meetings, to which I shall beg to call your attention. There was not one of those meetings at which any mandate from authority was disregarded; no proclamation was disregarded, no magisterial warning resisted in the slightest degree. There was no message or personal intimidation from any justice of peace treated with disregard---no police inspector, or sub-inspector, or constable disobeyed. Recollect that, my lords---remember that gentlemen of the jury! There is not the slightest evidence of even the smallest disregard of legal authority.

If we were seditious, why did we not get some warning? Why was there not a proclamation issued against these meetings. Oh! but there was a proclamation at length. I don't like to enter upon any angry topic; but that proclamation was immediately obeyed. You have no evidence of any conspiracy in any one of them, no evidence of anything but a ready submission and obedience to the law. Conspiracy—shame on those who invented such a term, as applied to men labouring as we were in the sacred cause of our country's liberty; obeying the laws, committing no violence! No, my lords, no! We have had many misfortunes in this country, many afflictions, many things to endure. Oh, gentlemen, your verdict will not be a conditional one. It will be such a verdict as will calm the troubled waters. If those meetings were tranquil before, why there is no need of it. If the language was harsh or violent your verdict will soothe and soften it. Even the excuse of violent language they shall never have again. No, gentlemen, they were not illegal meetings, they were meetings as I will show you, suited to the purpose they had in view. If it had been at one, or two, or three, or ten of them this tranquillity had prevailed, it would, perhaps, seem casual, but at every one of them the behaviour of the people was the same. The entire thirty-seven included in the indictment come within the same catalogue. It would have been by nothing but design, when you accumulate the number, that the same peaceful demeanour prevailed at all of them. The government knew of them—why was not their illegality previously imputed to them, if it existed? I am not one of those who would insinuate or say that the Attorney General meant to urge them into criminality, in order that he might pounce upon them. I say no such thing—I would do him more justice. He did not previously interfere, because there was no ground for a prosecution—there was nothing to warrant his interference. That is his defence. And I do not attach any criminality to him for not having interfered with them before. (Mr. O'Connell here had a short conversation with Mr. Sbiel, after which the learned gentleman resumed.) I am told that I use an equivocal word—I said that those meetings were quiet by design, I repeat it. The design pre-existed long before one of them were held; the design to be quiet and peaceable existed, and it will continue to exist. There was no such arrangement for any particular meeting. That was the education which I spoke of the Irish people having received—the education that the only certain way to establish their rights, and to obtain valuable amelioration and free institutions, was by peaceable conduct and obedience to the laws. I ask you, gentlemen, what evidence is there of a conspiracy from what has passed at any of these meetings? I leave it to your conscience—to your integrity—to answer the question. What care I what your politics are—you'll answer before your Maker for the verdict you pronounce—I leave the responsibility to you. This is one part of the conspiracy, and the next is the publication in the newspapers. Do not imagine I am going to detain you in canvassing all the phrases and sentences that have appeared in those papers. I am not. You have been powerfully addressed on that topic already. I shall take up the general nature of the evidence of those newspapers, from which you are called upon to fabricate a conspiracy. I submit that, with the exception of what is proved to have been delivered by me, the evidence of these

newspapers is no evidence against me, unless the conspiracy is first proved. And see what a circle that would lead you into. Are you to find the evidence of conspiracy from the newspapers? The newspapers are no evidence against me unless I be first proved to be a conspirator. Be that as it may, I shall leave it to the court as a matter of law, but I leave to you the weight, the worth of the evidence, shall that evidence go to you at all. Suppose it does, what is there in it against me?---what is its substantial weight against me? Is there any proof that I ever saw one of those newspapers?---is there any proof of any connexion between me and those newspapers? It will appear by the dates that when some of the harshest passages in them were printed I was not in town---I was attending these meetings in the country, and it was proved that at the association I distinctly disavowed that any newspaper was the organ of it. But it is said that we circulated these newspapers. See what the fact is. Those who subscribed a certain amount allocated a portion of it, according to our rules, to the purchase of a newspaper, and they were entitled to any paper they might select. The evidence is not that we selected any newspaper for them, but they ordered any one they pleased; and bear in mind, at the same time, that we proclaimed that no one of them was the organ of the association. It is said that these newspapers contained libels. If they did why were they not prosecuted? They were answerable for it under the law of libel. That should be our protection, if there were libels in them. The Attorney General was competent to institute a prosecution. It was not our duty to examine them, it was his. But the fact is, the Attorney General would have prosecuted every one of those newspapers long ago if he thought it worth his while. Every great newspaper "we" imagines himself a man of great importance; but when once these newspapers are read, if read at all, they are forgotten; and I would venture to say that not a particle of what is charged here as published by them would be thought of now if it was not for those trials. They are ephemeral productions---we are accustomed to them; they are either read and forgotten, or are not read and passed by. But what is it they are charged with? Exciting the people to violence and tumult. Did any one of them produce such an effect? Was there any sort of violence among the people? You, gentlemen, have to decide whether that political problem I have sought to solve---whether the political theory I have sought to realise, that which has been the leading principle of my political life---is one in its nature to be considered fairly, honestly, and liberally. Yes, gentlemen, if you thus regard it, you will take the whole tenor of my past life into consideration before you come to a conclusion as to the verdict which you ought to return, and you will form your judgment by a reference to the great and leading principles of my political career. It appears to me that the Attorney General himself, if I did not misconceive the drift of his observations, admitted the peaceable nature of my intentions; and of this there certainly can be no doubt, that the newspapers which have been given in evidence against me are full to overflowing with my admonitions to the people to observe the laws and to yield the most implicit obedience to everything having the shape and semblance of legal authority. Evidence the most convincing has been adduced, even by the crown, to demonstrate

what the great principle was upon which the repeal movement was founded and designed. It has been proved to you that the maxim received universal acceptance amongst us, that the man who committed a crime gives strength to the enemy. This sentiment was printed upon flags and banners---it was attached to all our documents---it was inscribed on our platform, and painted on the walls of the association. It was universally acknowledged amongst us as the cardinal maxim of our political lives, and was the topic of our conversation. We left nothing undone to impress upon the minds of those who joined the movement that the man who committed an offence against the law gave strength to whoever might be the enemy of our cause. Such was the principle that we proclaimed. It may be said that it was one that savoured of hostility; but if so, it had only a stronger effect on that account. You have heard again and again of my assertion that the most desirable of all political ameliorations were purchased at too dear a price if they could only be obtained at the expense of one drop of human blood. That is the principle of my political career; and if I stand prominent amongst men for anything, it is for the fearless and unceasing announcement of that principle. From the day when first I entered the arena of politics until the present hour, I have never neglected an opportunity of impressing upon the minds of my fellow-countrymen the fact, that I was an apostle of that political sect who held that liberty was only to be attained under such agencies as were strictly consistent with the law and the constitution---that freedom was to be attained, not by the effusion of human blood, but by the constitutional combination of good and wise men; by perseverance in the courses of tranquillity and good order, and by an utter abhorrence of violence and bloodshed. It is my proudest boast, that throughout a long and eventful life, I have faithfully devoted myself to the promulgation of that principle, and, without vanity, I can assert, that I am the first public man who ever proclaimed it. Other politicians have said---“Win your liberties by peaceable means if you can,” but there was a *riere pensee* in this admonition, and they always had in contemplation an appeal to physical force, in case other means should prove abortive. But I am not one of these. I have preached under every contingency, and I have again and again declared my intention to abandon the cause of repeal if a single drop of human blood were shed by those who advocated the measure. I made the same principle the basis for the movement in favour of Catholic emancipation; and it was by a rigid adherence to that principle that I conducted the movement to a glorious and triumphant issue. It is my boast that Catholic emancipation, and every achievement of my political life was obtained without violence and bloodshed; and is it fair, I ask you, gentlemen, that you should be called upon at this hour of the day to interrupt a man who has laid that down as the basis of his political conduct, and who at no period of his existence was ever known to deviate from the maxim? Is it right that men of honesty and intelligence should be called upon to brand now as a participator in conspiracy the man who has been preaching peace, law, and order during his whole life, and has invariably deprecated and denounced the idea that the objects of his political life were to be attained by an appeal to violent means. Gentlemen, I belong to a Christian persuasion, with whose

members it is a principle of doctrinal belief that no advantage to church or state---no, not even Heaven, can be sought to be attained at the expense of any crime whatsoever; that no sin is to be justified or palliated by any account of advantage, however enormous, that may possibly be obtained by its commission. If there was in that box a single member of my own religious persuasion, there would be no necessity for my impressing this fact upon your minds, for he could tell you that he professed that same doctrine in common with myself. All my life I have studiously endeavoured to model my political conduct according to the standard of that maxim of my religious belief, and, therefore, should you now be called upon to do your judgment and common sense the violence of believing that I could proclaim one thing and practice another; I fearlessly assert that there is no circumstance of my life, from my birth to the present hour, which can warrant you in doubting the sincerity of my professions. It will appear from reference to the newspapers that have been given in evidence, and even though there were no newspapers, the fact is so notorious as to admit of no dispute, that no man ever possessed so much of the confidence of the Irish people as I; no man enjoyed it so unremittingly, and in so large a degree; I have obtained the confidence of all classes of the Catholic laity not of the poor Catholics alone whose condition might be ameliorated by any change, but of the middle and higher classes also. I have also the honour of enjoying the confidence of the Catholic clergy, and the Catholic episcopacy, and to what am I to attribute the possession of their good graces unless to the assertion of this principle, and to the unswerving fidelity with which, through all the vicissitudes of my political life, I have invariably adhered to it? How long could I possess their confidence if I were the base deceiver I am pictured? Not an hour. But I possess their confidence; because clergy and laity are thoroughly convinced of the sincerity and integrity of purpose with which I have announced my sentiments. I am here surrounded by my countrymen, who have confided their cause to my management, for no other reason than that they have the fullest possible reliance on the sincerity with which, during a period of forty years, I have proclaimed the doctrine that the man who commits a crime injures the cause he espouses, and strengthens the hands of those who are its antagonists, and that no political advantage is worth the loss of a single life. My whole life is a refutation of the accusation that I am insincere; and is the invidious task now to be assigned to you, gentlemen, as branding your countrymen as fools and dotards---men who patronise hypocrisy, and who for near half a century have suffered themselves to be fooled and deluded by empty pretences? The public will not believe it---England will not believe it---nor will any enlightened country in creation believe it. I am here pleading before the European world. I am pleading the cause of my country before a jury of Protestant gentlemen, in presence of the kings and people of the universe, and with what amazement will they not gaze upon you if by a verdict which doubts for a moment the sincerity of my political professions, you brand as fools and dotards millions of your Catholic fellow countrymen, and with them, many, very many Protestants of the greatest intelligence and highest possible respectability. No, you cannot for a moment question the honest sincerity with which I have ever

advocated that glorious principle of peaceful exertion, the advocating of which was the pride of my youth, the glory of manhood, and the comfort of my declining years. I feel I have not done you justice in pressing this topic at such length upon your consideration. Such prolixity was unnecessary; for I am sure, you are wholly incapable of taking such a view of my conduct as that insisted on by the Crown. The only further observation which I will offer upon this branch of the case is merely to state that I doubt whether my sincerity in this respect has ever been questioned, even by the most implacable of my enemies. I do not think that it was ever publicly impugned, and certain I am that it ought never to have been impugned either publicly or privately. It is utterly impossible for me to believe that after having been so successful in my endeavours to obtain popular rights by means purely consistent with justice, humanity, the law, and the constitution. I could now fling to the winds every principle of my by-gone life, and assume the character and play the part of a conspirator. Nothing in my public conduct, I must again repeat, could justify such a suspicion. Nay, I fearlessly aver, there are incidents in my public life which give the lie to any such suspicion. Permit me to instance a few facts:—You must all remember what a frightful combination existed eight years ago amongst the workmen and operatives of the city of Dublin. Lives were lost in our public streets, or men were assaulted with such brutal violence that, if death did not ensue, the circumstance was to be attributed rather to a happy accident than to any forbearance on the part of the conspirators. The combination had spread to such a dreadful extent that the public authorities were unable to cope with it. It has been frequently alleged against me by my enemies that I am a man who would sacrifice principle to popularity. How stands the fact? I came forward—I opposed the combination publicly, single handed, and opposed them at the peril, not only of my popularity but of my very existence. The fact is notorious in Dublin. At the meeting in the Exchange the operatives were infuriated against me, and I owed the preservation of my life to the police. But it was my duty to oppose the combination, and I did not shrink from it. It was my duty to do it. I did not shrink from it. I persevered in it, and what occurred? I persuaded those who had been most ferocious against me, and from that day to this not a single combination outrage has occurred in Dublin. I opposed combination at the expense of popularity—at the risk of life; and is it creditable, I ask you, that I should have taken that part to play the hypocrite somewhere else? It was not in that alone that I exhibited my abhorrence of violence of any kind; for don't you find throughout these newspapers my perpetual opposition to Ribbonism? Have not my denunciations of Ribbonism been read over and over again to you—my warning to the people—my denunciations of the system to the police, calling on them in time to stop its progress? Oh! if there was any conspiracy would I not be glad to be assisted by the conspirators? If my means were iniquitous, would I not have the advantage of that iniquity? I had influence—I had only to countenance the Ribbonmen, and Heaven knows how far it would have extended! It has been stated to you over and over again—it is part of the prosecution—my discountenance of these Ribbonmen—nay

more, my resistance to all secret societies---my constant denunciation of them. Oh! do but take these things into your consideration, and say in your conscience, if you can, that man is a hypocrite, who, without anything in the world to move him but adherence to his principles, flung away the instrument that would be most useful to his cause, but which he rejected because it was in its nature criminal. Another thing in my public life was, that I opposed, at the risk of my popularity, and to loss of popularity, the present system of poor laws. With the influence I possess could I not have roused the poverty of Ireland against its property, and insisted that all that were poor should be fed by all that were rich, as others did. No, I saw the danger of such a proceeding; I was taunted by many a sincere friend---sneered at by men who have joined me again. No, no; I consulted my conscience, and that conscience told me that the real nature of the provision makes more destitute than it relieves---that its machinery must be a great burthen on the property of the country. But, my lords, since it became law, I have not given it any opposition. I have allowed the experiment to be tried, and those who were inimical before have avowed that I was right, and they were wrong, and I am ready to ameliorate it, and resist its working if I can. Gentlemen, you also recollect it is given in evidence the manner of my answer to young Mr. Tyler's speech and letter---you saw from that and from the speech given in evidence by Mr. Bond Hughes---and now, my lords, as I have mentioned that name I think it right to say that as I was one of those convinced that that gentleman had wilfully sworn what was not true, I am glad to have mentioned his name, because it affords me an opportunity I am proud to take, of stating, that I never saw a witness on the table who gave his evidence more fairly than Mr. Bond Hughes, and I am thoroughly convinced that the contradiction in his evidence was a mistake that any honest man might fall into. It is not part of this case, but I am sure your lordships don't think me wrong in making this public avowal. Gentlemen, it appears by his report, also, how emphatically I informed the Americans that we were anxious for sympathy from them, but that we would take no part, in the slightest degree, disparaging of our allegiance. But that is put still more strongly when you recollect the denunciation I made of the American slaveowners. Large sums of money were sent from the American slave-holding states---the remittances were in progress---money was in progress of collection in Charleston and Carolina; but did I mitigate my tone, or moderate my language in condemning the principle of slavery? Did I not denounce the slave-owners as enemies of God and of man---as culprits and criminals? Did I not compare association with them to association with pickpockets and felons? Did I not use the most emphatic language to express my denunciation of the horrible traffic in human beings---of all the immorality, and all the frightful horrors that belong to that system? Oh, if I was a hypocrite, would I not have passed over the topic with a few soft words and have accepted their sympathy. Is there hypocrisy in my public sentiments that no amelioration in any public institution can be worth one drop of blood. Gentlemen, you have in the newspapers also that the democratic party in France, headed by Monsieur Ledru Rollin, offered us sympathy and support. It is a considerable party; it is a powerful party; it is the party

that hates the English; the party most of all ferocious against England---a hatred which arose from the blow their vanity got at Waterloo. You have my answer to that offer; did I seek his support, or the support of his party? Did I mitigate and frame my answer in a way that I should appear unwilling to accept that support, but really allow it? No; I took the firm tone of loyalty; I rejected their support; I refused the offer; I cautioned him against coming over here, for we would do nothing inconsistent with our loyalty; and is that the way in which my hypocrisy is proved? Gentlemen, it was not that party in France alone that I defied. Even at their present monarch I have hurled my defiance. To be sure, the Attorney General, with great ingenuity, introduced a report of the secret committee of the House of Commons in Ireland in 1797, and he said we were acting on that plan. They were looking for French assistance; they had Irish emissaries in France; they had, probably, persons representing the French here; acting on the plan! imitating the conduct of the United Irishmen in 1798! Oh, gentlemen it was directly the reverse. It may be said I speculate on the restoration of the elder branch of that family; Henry the Fifth, as he is called. I would be very sorry to wait for a repeal of the union till that occurs (laughter,) not that I disparage his title; for my opinion is that Europe will never be perfectly safe until that branch of the Bourbon family be restored---restored under liberal institutions. But I despised any, even the slightest sympathy from that party; I hurled the indignation of my mind against the man that would force the children of France to be educated by infidel professors. I am not entering into the topic further than that you have seen by these reports my antagonism to the French government. There is another matter in my life, my opposition to the Chartists. Recollect, gentlemen, that when the repeal association was in full force the Chartists were in insurrection in England---that they were entering in hundreds and thousands into the manufacturing towns of England---recollect, gentlemen, that there is something fascinating to all the poorer classes in Chartism. If I was playing the hypocrite would I not have been mitigated in my tone respecting them? I did denounce them. I kept the Irish in England from joining them. The very moment a Chartist subscribed to the funds of the association his money was handed back to him, and his name struck off our list. Now, if my object was popular insurrection, good Heaven! would not any man in my situation have wished to have strength? There was no oath to be taken---no danger of the penalties of the law---yet I discountenanced Chartism. And, my lords, I do firmly declare that it is my conscientious conviction that if I did not interfere Chartism would have spread from one end of Ireland to the other. Gentlemen of the jury, these were the societies I succeeded in driving from Ireland, and am I to be charged with a conspiracy for this? Another point to which I will call your attention is this---it has been my constant aim to pay the most devoted allegiance to the Queen; you have it in evidence, and you have heard it read out of all the newspapers, that her name was treated with the utmost respect, attention, regard, and delight in every place by the Irish people. I have never made a speech which did not breathe the most dutiful and affectionate loyalty to her person, crown, and dignity. I stand here and repeat, I



never made such a speech. I always made a difference between the Queen and her ministers; and the Attorney General has no right to say that I ever uttered one particle of disloyalty in arraigning the speech alluded to. When I spoke I made the distinction between the minister and the sovereign, and I say there is not a particle or taint of disloyalty in the observations I made. I answered that speech, not as the speech of the Queen, but of the minister of the day, and I say there is no taint of disloyalty in it. I am come to a time of life when she can do nothing for me; and yet I am sure there is not a man in the court who could infer that I meant disloyalty. In one thing I think the Attorney General did not act fair by me; and it does afflict me that I should be charged with disloyalty to the sovereign in the manner he has sought to fasten it on me. In speaking of the ministry the word *Judy* occurred, and then the Attorney General tells you I called the Queen a fishwoman. That speech had no reference to the Queen at all---don't believe it; I feel angry at it. The speech had reference to the minister alone, and to him I applied the term "*Judy*," and nothing else, and it is utterly false that I used the word to the Queen; and I here disclaim, abjure, and disavow the man who would be capable of using such language to the sovereign. No matter what I may be accused of, I have never been accused of disloyalty or disaffection to my sovereign, and I repeat I never did apply any such disrespectful language to the Queen as the Attorney General has stated to you. When I did use strong language, I have always distinguished between the Queen and her ministers. Gentlemen, I fear I have detained you rather longer on this point than I intended, but I have to judge of my case by referring you to my public conduct which is fully before you. I might have talents, and whatever they were I must now say, in the decline and evening of my life, that my long and ardent desire was breathed for the liberties of my country. Gentlemen, it was said the meetings, when they took place, had some object, so they had---the repeal of the union? Was that a bad or injurious purpose? I deliberately say it was not; no, it was the most useful that could possibly be had for the benefit of this country. I say there is not a man in this court---the neutrality of the court alone excepted---that ought not to be a repealer, and, I think, before I sit down I will make you all repealers (loud laughter). I will show it is your duty to join the repeal cause, and then I am sure you will have pleasure in doing so (laughter). I mean, in the first place, to show you the jealous tyranny exercised of old to this country by the English parliament---that it had from the most remote period watched this country with a narrow jealousy. I need only mention the woollen manufactures of this country. It is a long time ago, and occurred in the reign of a King whose actions you are not inclined to condemn. I will show that the settlement of 1782 was to be a final adjudication and establishment of the Irish parliament for ever. In the next place, I will show you the great prosperity of Ireland consequent on a legislative independence. I will show you that the union was carried by atrocious means. I will next show you that the union was founded in the greatest injustice and fraud---I will show you the distress that followed the union statute; I will show you the ill-treatment of Ireland by England, which is a matter of history so well known that I will not detain you on the point. Yet being brought here by the Attorney

General, my defence is, that I am not looking for what is injurious to the country, but for what would be of the greatest possible benefit to this country. I have a right to this; for I have represented the county of Clare, with 250,000 inhabitants; I have represented Waterford, with 300,000 inhabitants; I have represented Kerry, with 200,000 inhabitants; I have represented Meath, with 300,000 inhabitants; and I now stand here, the proud representative of the county of Cork, with her 730,000 inhabitants; and I feel it a duty I owe to the country to state that I am seeking what will benefit her inhabitants. I twice represented the city of Dublin, and I feel grateful to the Irish people for the confidence reposed in me, and I here stand up to demand for her her just rights and privileges. I first propose to show you the misgovernment of Ireland by England, and I will do so from a French author. He is an eminent historian, and one of the literati of France, and I will give you his description. Hear what he says; it is from Thierry's *History of the Conquest of England by the Normans*, 3d. vol. p. 430:—

“The conquest of Ireland by the Anglo-Normans is, perhaps, the only one which has not been followed by gradual ameliorations in the condition of the conquered people. In England, the descendants of the Anglo-Saxons, though unable to free themselves from the dominion of the Conqueror, advanced rapidly in prosperity and civilisation. But the native Irish, apparently placed in similar circumstances, have for five centuries, exhibited a state of uniform decline; and, yet, this people are endowed by nature with great quickness of parts, and a remarkable aptitude for every description of labour. The soil of Ireland is fertile and adapted to cultivation, yet its fertility has been equally unprofitable to the conquerors and the conquered; and the descendants of the Normans, notwithstanding the extent of their possessions, have become gradually as impoverished as the Irish themselves. This singular destiny, which presses with equal weight upon the ancient inhabitants, and the more recent settlers of Ireland, is the consequence of their proximity to England, and of the influence which, ever since the conquest, the government of the latter country has constantly exercised over the internal affairs of the former.”

There is a disinterested and impartial historian giving you this melancholy picture of the state of things, and you may see it is all owing to the baneful influence of the English government on this country. The next authority which I shall quote is not one that would be found in the same ranks with the last—it was Mr. Pitt. In speaking of the commercial propositions of 1785, I find he says:—

“The uniform policy of England had been to deprive Ireland of the use of her own resources, and to make her subservient to the interests and the opulence of the English people.” That is not my language, gentlemen, it is the language of Mr. Pitt, avowing openly the policy pursued by England towards Ireland. I now come to another authority, which, in this court, at all events, will carry great weight; I mean that of the late Chief Justice Bushe. Listen, I beseech you, to the words of that gifted man:—“You are called upon to give up your independence, and to whom are you called upon to give it up? To a nation which for six hundred years has treated you with uniform oppression and injustice. The treasury bench startles at the assertion, *non meus hic sermo est*. If the treasury bench scold me, Mr.

Pitt will scold them, it is his assertion in so many words in his speech. 'Ireland,' says he, 'has been always treated with injustice and illiberality.' 'Ireland,' says Junius, 'has been uniformly plundered and oppressed.' This is not the slander of Junius, nor the candour of Mr. Pitt, it is history. For centuries have the British parliament and nation kept you down, shackled your commerce, and paralyzed your exertions, despised your character, and ridiculed your pretensions to any privileges, commercial or constitutional. She has never conceded a point to you which she could avoid, or granted a favour which was not reluctantly distilled. They have been all wrung from her like drops of her blood." Gentlemen, have I ever used language half so strong, half so powerful, or half so eloquent, as the passage I have read? There was this candid admission made by Mr. Secretary Cooke, the author of the pamphlet---namely, that the intention of the British government was only to prevent Ireland from growing too great and powerful. There was another passage in it to the effect that England was extorting, in the moment of her struggle, those rights which she would likely concede in a moment of her weakness---that it was the denial of the rights from one great nation to another, from an intolerance of its prosperity. When in beginning to address you (resumed Mr. O'Connell) I said that I would be able to show you that it was an intolerance of Irish prosperity that had created the union; and if the author of this sentiment were here in court, he should have avowed every word of what he said, for he spoke it in the sincerity of his heart. I think I need not go much further to prove to you that it was the intolerance of the British government for Irish prosperity which had influenced the measure of the Union. Gentlemen of the jury, mark the words; for you have this avowal from an authority you cannot doubt. These are topics which cannot ever be forgotten; and I feel much obliged to the learned Attorney General for giving me the opportunity of reviving them. I must refer you next, gentlemen of the jury, to a letter from Primate Boulter at the same period, referring to the same subject, in which the learned prelate charged the British government with pursuing an infamous policy towards Ireland in making the most odious distinctions between the different sects and religions in Ireland, and setting one in actual hostility towards the other, for the purpose of completing their own unjust intentions, and that such a policy must be deprecated as a very great calamity. Have I not proved what I have said (continued Mr. O'Connell) from the evidence of such men, as Pitt, Bushe, Primate Boulter, and others. I shall now, gentlemen, invite you to consider with me the transactions of 1782, and I will detain you but a very short time on this point, because everything connected with that period must be familiar to the Irish mind. That was a solitary bright spot in the history of Ireland---a green island, as it were, amid the sterility of the world---an oasis of prosperity amid the mass of misrule and tyranny which had surrounded us. The transactions of 1782 cannot be forgotten, and the prosperity of Ireland at the time, as it appeared, was of the most consummate advantage to England, when she assailed America and was defeated. She endeavoured to crush the forces of America, but America resisted, and America from rebellion obtained a revolution. England then wanted the assistance of Ireland. She had not then sufficient troops to support her demands and to maintain, if she were

opposed, her connexion with this country. Did Ireland then think of separating herself from England? Oh! no, that was always a thought which was foreign to the Irish mind. They sought not for separation, but they sought for the assertion of Irish rights. The Irish obtained free trade, and they demanded legislative independence. It was not then safe for England to refuse her just demands---it was not prudent to treat Ireland with disregard. England willingly conceded those demands. In a letter written about that time from the leader of the government were contained those words---“Will nobody stop that madman Grattan?” Nobody did attempt to stop the demands of Grattan; and the revolution of 1782 obtained for Ireland those rights which she laid claim to. Gentlemen of the jury, it is part of history that the monarch of that day, from the throne, declared this to be a final adjustment, and that there was no question left open for further discussion. It is a fact in history that the English House of Lords, and the English House of Commons, had respectively declared that this was a final adjustment. The Lord Lieutenant from the throne, in the Irish House of Parliament had declared the same. Both houses declared it to be final. But how was this got rid of? I will come to that presently. I will show you, gentlemen, what the opinions of certain statesmen were with respect to this subject. Charles James Fox, in April, 1782, said---

“So far was he from thinking that Great Britain had a right to govern Ireland if she did not choose to be governed by us, that he maintained that no country that ever had existed or did exist, had a right to hold the sovereignty of another against the will and consent of that other.”

And in another passage, in May, 1782, he says---

“He desired gentlemen to look forward to that happy period when Ireland should experience the blessings that attend freedom of trade and constitution; when by the richness and fertility of her soil, the industry of her manufacturers, and the increase of her population, she should become a powerful country; then might England look for powerful assistance to seamen to man her fleets, and soldiers to fight her battles. England renouncing all right to legislate for Ireland, the latter would most cordially support the former as a friend whom she loved. If this country, on the other hand, was to assume the power of making laws for Ireland she must only make an enemy instead of a friend, for where there was not a community of interests, there the party whose interests were sacrificed became an enemy.”--2 vol. p. 60.

Such was the principle upon which the great settlement was brought about. I would ask you, gentlemen of the jury, did you ever in your lives know a single individual Volunteer of 1782, who, to the last moment of his life, did not boast of having participated in the change that then took place? It was clear that up to this time Ireland had preserved her allegiance, and had gained tranquillity in connexion with it; that she, in fact, clung with firmer hold to her connexion with England while she obtained those salutary results. I may be asked whether I have any proof that the prophecy of Mr. Fox was realised, that the prosperity promised to Ireland had been actually gained by the legislative independence. I will tell you upon what evidence I will demonstrate these facts. The first

authority I shall refer you to is Pitt, in 1799, when proposing the measure of the union. He should quote the following from the *Anti-Union Evening Post* :—

“ Pitt’s case, at the time of the union, would be stronger if he could have shown that Ireland was declining and impoverished under her own parliament. But the facts were too powerful for him to wrestle with, and he was unable to meet them in that way. And what, therefore, was his reasoning ? ‘ As Ireland,’ he said, ‘ was so prosperous under her own parliament, we can calculate that the amount of that prosperity will be trebled under a British legislature.’ He first quoted a speech of Mr. Foster’s in 1785, in these words—‘ The exportation of Irish produce to England amounts to two millions and a half annually, and the exportation of British produce to Ireland amounts to one million.’ He gives another quotation from Foster, in which it is said—‘ Britain imports annually 2,000,000*l.* of our products, all, or very nearly all, duty free, and we import almost a million of hers, and raise a revenue on almost every article of it ;’ this relates to the year 1785. Pitt goes on to say—‘ But how stands the case now ? (1799). The trade at this time is infinitely more advantageous to Ireland. It will be proved from the documents I hold in my hand, as far as relates to the mere interchange of manufactures, that the manufactures exported to Ireland from Great Britain in 1797, very little exceeded one million sterling (the articles of produce amount to nearly the same sum) ; whilst Great Britain, on the other hand, imported from Ireland to the amount of more than three millions in the manufacture of linen and linen yarn, and between two and three millions in provisions and cattle, besides corn and other articles of produce.”

Lord Clare made a speech in 1798, which he subsequently published, and in which I find this remarkable passage, to which I now beg leave to direct your particular attention :—“ There is not,” said his lordship, “ a nation on the face of the habitable globe which has advanced in cultivation, in agriculture, in manufactures, with the same rapidity, in the same period, as Ireland” (viz., from 1782 to 1798.)

You have heard proof of the prosperity of Ireland from authority which cannot be questioned. We, at that time, exported three millions’ worth of linen and linen yarn, besides our exports in provision, which amounted to a million and a half. What were our imports of English manufactured goods at that time ? About half the amount of what we exported. How does the case stand at present ? You all know too well indeed ; I may say that some of you has had sad experience of the fact, that almost everything we use now is imported from England, and all our manufactures are gone, and our people who lived upon the wages which are always derived from that source, are famishing. When we exported three millions and a half of manufactured goods, you are aware that a very large proportion of that amount consisted of wages paid to the labourers and artisans employed ; and that money was again expended with the farmer and the shopkeeper ; and thus went on increasing comfort and prosperity throughout the land. But, alas ! what is the case now ? Wretchedness and misery prevail, where wealth and happiness once had their abode. And should the man be punished who has no other object under Heaven but to restore his country to her former state of independence and prosperity ? I have given you the

authority of Foster and Pitt, and I will now come to give you the authority of another man who never was very favourable to the Irish people, Lord Clare. His lordship, in a speech made by him in 1798, made use of those remarkable words; and I beg to call your particular attention to them. "There is not," said his lordship, "a nation on the habitable globe which has advanced in cultivation, civilization, agriculture, and manufacture, with the same rapidity, in the same period, as Ireland had, from 1782 to 1798." I will next call your attention to Lord Grey's speech on the Scottish Union, in 1799.

"In truth," said that nobleman, "for a period of more than forty years after the (Scotch) union. Scotland exhibited no proofs of increased industry and rising wealth."

Lord Grey, in continuation, stated that—"Till after 1784 there was no sensible advance of the commerce of Scotland. Several of her manufactures were not established till 60 years after the union, and her principal branch of manufacture was not set up, I believe, till 1781. The abolition of the heritable jurisdictions was the first great measure that gave an impulse to the spirit of improvement in Scotland. Since that time the prosperity of Scotland has been considerable, but certainly not so great as that of Ireland has been within the same period." I now refer to Lord Plunkett, who, in giving a description of Ireland in a speech in Parliament in 1799; in one of his happiest efforts of oratory, speaks of her as of "a little island with a population of four or five millions of people, hardy, gallant, and enthusiastic—possessed of all means of civilisation, agriculture, and commerce, well pursued and understood; a constitution fully recognised and established; her revenues, her trade, her manufactures thriving beyond the hope or the example of any other country of her extent—within these few years advancing with a rapidity astonishing even to herself; not complaining of deficiency in these respects, but enjoying and acknowledging her prosperity (hear hear). She is called on to surrender them all to the control of—whom? Is it to a great and powerful continent, to whom nature intended her as an appendage—to a mighty people, totally exceeding her in all calculation of territory or population? No! but to another happy little island, placed beside her in the bosom of the Atlantic, of little more than double her territory and population, and possessing resources not nearly so superior to her wants."

At this stage of the proceedings, the Court adjourned for a few minutes.

When the Court resumed, Mr. O'Connell said—Gentlemen when the adjournment took place I was in the act of reading for you several authorities, shewing how much Ireland progressed under an independent parliament, I have a few more, I think, to corroborate and bear out, and, if possible, to extend the proof of that prosperity. You heard how in the year 1810 a meeting was held in Dublin to petition for the repeal of the union, which, at that time, was discussed also in the corporation and other places. I will now read for you the speech of Mr. Hutton made at the corporation—who then belonged to a respectable house that still holds a high character in the city. "Some of us," said he, "remember the

country as she was before we recovered and brought back our constitution in the year 1782." We are reminded of it at the present period. Then, as now, our merchants were without trade—our shopkeepers without customers—our workmen without employment—then, as now, it became the universal feeling, that nothing but the recovery of our rights would save us. Our rights were recovered, and how soon afterwards, indeed, as if by magic, plenty smiled on us, and we soon became prosperous and happy." Gentlemen, in the year 1798, when the union was talked of, the Bankers of Dublin had a meeting, and in the chair was the head of the firm of Latouche. That was on the 18th of December, 1798, when the following resolutions were passed:—"Resolved—That since the renunciation of Great Britain, in 1782, to legislate for Ireland, the commerce and prosperity of Ireland have eminently increased. Resolved—That we attribute these blessings, under Providence, to the wisdom of the Irish Parliament." I have, in addition to these, from the most unquestionable authority, (an authority incapable of deceiving or of being deceived,) the relative increase in England and Ireland of the consumption of tea, tobacco, wine, sugar, and coffee, from 1785 to the union, which is as follows:—

Tea.....	Increase in Ireland.....	84 per cent.
	Increase in England.....	45 per cent.

From 1786 to the Union :

Tobacco	Increase in Ireland.....	100 per cent.
	Increase in England.....	64 per cent.

From 1787 to the Union :

Wine....	Increase in Ireland.....	74 per cent.
	Increase in England.....	22 per cent.

From 1785 to the Union :

Sugar...	Increase in Ireland.....	57 per cent.
	Increase in England.....	53 per cent.
Coffee...	Increase in Ireland.....	600 per cent.
	Increase in England.....	75 per cent.

I hope to demonstrate, gentlemen, that there is no country ever surpassed in prosperity the advancement made by Ireland from the period of 1782 to the union. There is a cant word often used by many people, "dismemberment of the empire," which I will prove to be an absurdity. Ireland with her own parliament, increased in prosperity, during her connexion with England; and why should she require a dismemberment? I cannot understand the term dismemberment, unless from a state that is in the depths of poverty, not with one in which she increased in prosperity, as Ireland did with England, when she had her own parliament, and as I fervently believe she will again experience under her own domestic legislature. We lost our own parliament by means of corruption: the means were certainly those best suited to the nature of so deleterious an object, and everything that the worst passions could effect were arraigned to accomplish it. How was it carried? The Attorney General has referred to the report of a Secret Committee of the House of Commons, in '96 and

'97. I will now refer you to the report of the Secret Committee of the House of Lords in 1791, wherein it is stated that it was accomplished by the fomenting of the rebellion to such a pitch, and that the government's fastening it, was the first ingredient of that vile and nefarious plan. A person named M'Guane, an attorney, gave information to the government; he was a Colonel in the United Irishmen, as well as a county deputy. He attended all the meetings of the county deputies; and, on the 4th of May, 1797, he got into the pay of government, and transmitted to them (through a Mr. Clelland, agent to Lord Londonderry) the names of all persons who attended, the returns made, and the time and place for the next meeting. So that the government was in full possession of the entire proceedings, knew the names of the colonels and county deputies, and where they were to be found at a particular time; so that if they had been so disposed they could have had them all arrested, and thereby crushed the rebellion at once, but instead of doing so, they let it go on for the purpose of carrying the union. I will now refer you to another authority, which you will find in the life of Grattan, 2d volume, page 145, it is as follows:—

"Shortly before his death Lord Clonmel sent for his nephew, Dean Scott, got him to examine his papers, and destroy those that were useless. There were many relating to politics that disclosed the conduct of the Irish government at the period of the disturbances in 1798. There was one letter in particular which showed their duplicity, and that they might have crushed the rebellion; but that they let it go on, on purpose, to carry the Union, and that this was their design. When Lord Clonmel was dying, he stated this to Dean Scott, and made him destroy the letter; he further added that he had gone to the Lord Lieutenant, and told him as they knew of the proceedings of the disaffected, it was wrong to permit them to go on; that the government, having it in their power, should crush them at once, and prevent the insurrection. He was coldly received, and found that his advice was not relished."

The entire country rose against the measure; but they were controlled and checked by the military, as well as the dissensions that existed amongst themselves. Mr. Plunket made use of these words—

Plunket—"I accuse the government of fomenting the embers of a lingering rebellion; of hallooing the Protestant against the Catholic, and the Catholic against the Protestant; of artfully keeping alive domestic dissensions for the purposes of subjugation."

It is manifest, therefore, that the Union was carried against the will of the Irish people; and it would have been much more manifest if the people had an opportunity of expressing their sentiments. What were the words of Bushe? "The basest corruption and artifice were exerted to promote the Union. All the worst passions of the human heart were enlisted in the service; and all the most depraved ingenuity of the human intellect tortured to devise new contrivances for fraud." Grattan thus reports the language of Lord Castlereagh in reference to the corruption which might become necessary to carry the union.

"Half a million, or more, were expended some years since to break an opposition—the same, or greater sum, may be necessary now," and Grattan



added, "that Lord Castlereagh had said so in the most extensive sense of bribery and corruption. The threat was proceeded on; the peerage sold; the catiffs of corruption were everywhere in the lobby, in the streets, on the steps, and at the door of every parliamentary leader, offering titles to some, office to others, corruption to all."

I will now read a passage from a speech made by Lord Grey, in the year 1800, on the repugnance of the Irish nation to the union:—"Twenty-seven counties," said his lordship—"have petitioned against the measure. The petition from the county of Down is signed by upwards of 17,000 respectable independent men, and all the others are in a similar proportion. Dublin petitioned under the great seal of the city, and each of the corporations in it followed the example. Drogheda petitioned against the union; and almost every other town in the kingdom, in like manner, testified its disapprobation; those in favour of the measure, professing great influence in the country, obtained a few counter petitions; yet though the petition from the county Down was signed by 17,000, the counter petition was signed only by 415; though there were 707,000 who had signed petitions against the measure, the total number of those who declared themselves in favour of it did not exceed 3,000, and many of these only prayed that the measure might be discussed. If the facts I state are true (and I challenge any man to falsify them), could a nation in more direct terms express its disapprobation of a political measure than Ireland has done of a legislative union with Great Britain? In fact, the nation is nearly unanimous, and this great majority is composed, not of bigots, fanatics, or jacobins, but of the most respectable of every class in the community."

Let me now request your attention to a description given by Lord Plunket of the mode in which the union was carried—"I will be bold to say that licentious and impious France, in all the unrestrained excesses to which anarchy and atheism have given birth, has not committed a more insidious act against her enemy than is now attempted by the professed champion of the cause of civilised Europe against a friend and ally in the hour of her calamity and distress---at a moment when our country is filled with British troops, when the loyal men of Ireland are fatigued and exhausted by their efforts to subdue the rebellion---efforts to which they had succeeded before those troops arrived---whilst the *habeas corpus* act was suspended---whilst trials by court-martial are carrying on in many parts of the kingdom---whilst the people are taught to think they have no right to meet or to deliberate, and whilst the great body of them are palsied by their fears, or worn down by their exertions, that even the vital question is scarcely able to rouse them from their lethargy---at a moment when we are distracted by domestic dissensions---dissensions artfully kept alive as the pretext of our present subjugation, and the instrument of our future thralldom."

That is Lord Plunket's description of the means by which the union was carried, and yet it is only a partial account. One million two hundred and seventy-five thousand pounds were spent in purchasing rotten boroughs. Three millions besides in hard cash were paid in direct and actual bribery to persons who voted, or their connexions. There was no office from the

highest in the church to the lowest in the constabulary—no, that force did not exist; but there was no situation, from the highest to the lowest, sacred or profane, which was not in the market. There was nothing of contract; nothing of agreement in the carrying of the union, all was shameless fraud and undisguised corruption, involving more of moral iniquity than ever accompanied any public transaction. Gentlemen of the jury, you can easily imagine what were the results of such a measure, so carried; you feel them in your daily avocations of business; you see them in the state of your streets; you know them from the position of your trade and commerce. I have shown what has been the general spirit of the English government, whenever it had power, from the date of the final settlement in 1782. I have established that there was an extraordinary advance in prosperity under an Irish Parliament. I have shortly described the means by which the union was carried, and I shall now proceed, with as much brevity, as I can; but I fear at greater length than I could wish, to lay before you evidence of the evil results of the union as affecting Ireland. In 1794 the Irish debt was only seven millions, the debt of England had risen to fourteen millions, the debt of England at the same time three hundred and fifty millions. At the time of the union the Irish debt was twenty-one millions. I know it has been since stated that it was twenty-three millions; but that was by a resolution of the House of Commons of England, passed in 1811, by which it was resolved that the separate debt of Ireland should be charged with all the expense of carrying the union. Well, the Irish debt was twenty-one millions, the English four hundred and forty-six millions. Of the seventeen millions of annual interest upon this sum, it was agreed that Ireland should not be charged any thing, for the principal. Were those terms complied with? No. Ireland is charged with every penny of that four hundred and forty-six millions, principal and interest, in spite of the promises of Lord Castlereagh; and the lands, the industry, the labour of the nation are mortgaged for its payment. As a proof of the total mismanagement of our finances, detrimental to Ireland, and to shew the progressive accumulation of our debt, I will read an extract:—

“About the year 1794 the Irish debt was 7,000,000*l.*; in the year 1798 the Irish debt 14,000,000*l.* At the last-named period the English debt was, at least, 350,000,000*l.* At the time of the Union Ireland owed 24 millions, England 446 millions. What were the terms of the Union? They were these---that England was to bear for ever the burden of these 446 millions, and, consequently, for its interest and charge, the burden of a separate taxation of seventeen millions annually, and that Ireland was not charged with that 446 millions at all for its principle or interest. But were these conditions complied with? No; of course they were not, and Ireland owes every penny of that stupendous sum (hear, hear). You are charged with every farthing of it; and, notwithstanding all the distinct promises of Castlereagh, the lands, the properties, the labours, the industry of the Irish people---all, all are liable to be mortgaged for the debt.”

This is the way in which our affairs have been managed, The Irish parliament had an interest in keeping the Irish nation out of debt. The best proof of this is that Ireland owed but fourteen millions when England

owed three hundred and fifty millions, and only twenty-one millions when England owed four hundred and forty-six millions. The Irish parliament has been often assailed; but I fearlessly ask, could anything have been more protective than to keep the people out of debt? Whilst the English was squandering profusely, the Irish were thrifty; but from the moment we were placed under England the proportion of increase went on in such a manner that whilst it was for England as sixteen to ten, it was for Ireland as forty-three to ten. Hear now the language of Sir John Newport in 1822:—

“ Ever since the union the Imperial Parliament had laboured to raise the scale of taxation in Ireland as high as it was in England, and only relinquished the attempt when they found it was wholly unproductive. For twelve years he had remonstrated against this scheme, and had foreseen the evils resulting from it, of a beggarly gentry, and a ruined peasantry. Ireland had four millions of nominally increased taxes, while the whole failed as a system of revenue, and the people were burdened without any relief to the treasury (hear, hear). It would be found, as it was in some other countries, that the iron grasp of poverty had paralysed the arm of the tax-gatherer, and limited in this instance the omnipotence, of parliament. They had taxed the people, but not augmented the supplies; they had drawn on capital—not income, and they, in consequence, reaped the harvest of discontent, and failed to reap the harvest of revenue.”

It was objected to Lord Lansdowne that the effect of his proposition would be to make Ireland the rival in trade and manufactures of England and Scotland. He was accused of this. He disclaimed any such intention, and now I ask you, could this occur in an Irish Parliament? What must have been the spirit of the assembly where it became necessary to disclaim, as something outrageous, atrocious, and abominable, the idea of making Ireland the rival in trade and manufacture of England and Scotland. Do you not, gentlemen, perceive the fatuity, the folly of leaving your affairs to the management of those amongst whom it is considered a reproach to seek a rivalry with other countries. Oh! this declaration speaks trumpet-tongued. I hope it will thunder in your ears, and excite in your minds a spirit of just indignation that any attempt should be made, through the medium of a court of law, to prevent the uprising of that peaceful power of public opinion which will procure for our country a parliament to legislate for her interests. I shall now read an extract in reference to the proportion of the English and Irish debts. You have seen how the Irish debt was kept down by the Irish Parliament; but in sixteen years after the union the Irish debt had increased 230 per cent., whilst the British, in the same time, only increased 60 per cent. These facts are so little known, and so much intervenes to prevent a knowledge of them, that I feel delighted at the opportunity of again circulating them (laughter):—

“ The enormous excess of British over Irish debt at the Union left the British minister no excuse for their consolidation, and accordingly it was arranged that the two debts should continue to be separately provided for. The active expenditure of the empire, i. e. the expenditure clear of charge of debts, was to be provided for in the proportion of two parts from Ireland to fifteen for Great Britain. These proportions were to cease, the

debts were to be consolidated, and the two countries to contribute indiscriminately by equal taxes, as soon as the said respective debts should be brought to bear to each other the proportions of the contributions—viz., as 2 to 15, provided also that the fiscal ability of Ireland should be found to have increased. Now, the 2 to 15 rate of contribution was denounced at the time by Irishmen as too high for Ireland, and afterwards so admitted by the British ministers themselves. Its consequence was, to exhaust and impoverish her to such a degree that her debt in sixteen years increased 230 per cent., while the British only increased 66 per cent. This disproportionate and unjust increase of the Irish debt brought the 2 to 15 proportion between it and the British debt. Advantage was taken of that single branch of the contingency contemplated in the union act, although the other branch of the contingency—viz., the increase of Ireland's ability had not only occurred, but, by the confession of the English ministers themselves in 1816, the very contrary had occurred—namely, Ireland had become poorer than before. Advantage, we say, was taken of that single branch of the contingency to consolidate the debts, to do away with all measure of proportionate contribution, and place the purse of Ireland, without restriction or limit, in the hands of the British Chancellor of the Exchequer, thenceforward to take from it, and apply as he liked, every penny it did then and might at any further time contain, and rob Ireland of all chance of benefit from any surplus of revenue thenceforward and for ever.

## GENERAL ABSTRACT OF TAXES REPEALED OR REMITTED.

IN	GREAT BRITAIN.	AND	IRELAND.
Customs	£ 7,929,567		£635,200
Excise	14,093,638		368,530
Stamps	443,634		152,609
Post-office	130,000		13,198
Property Duty	14,617,823		
Windows	1,577,773		179,403
Houses	250,000		53,673
Servants	472,061		42,988
Carriages	391,796		71,086
Horses	1,172,034		77,524
Dogs	6,876		
	<hr/>		<hr/>
	£41,085,202		£1,584,211

The taxes repealed or remitted in Ireland being one twenty-sixth part of those repealed in Great Britain."

From Finance Report of Public Expenditure, 1815,

"That for several years Ireland has advanced in permanent taxation more rapidly than Great Britain itself, notwithstanding the immense exertions of the latter country, including the extraordinary and war taxes, the permanent revenue of Great Britain having increased from the year 1801, in the proportion of 16½ to 10; the whole revenue of Great Britain, including war taxes, at 21½ to 10; and the revenues of Ireland in the proportion of 23 to 10. But in the twenty-four years referred to your

committee, the increase of Irish revenue has been in the proportion of 464 to 10 !!!”

That is going back to 1793.

Lord Lansdowne, also, in making a motion on the state of Ireland in the same year, said—“The revenue in 1807 amounted to 4,378,241*l.* That between that year and 1815, additional taxes had been imposed, which were estimated to produce 3,476,000*l.*; and that so far from an increase to the revenue having been the result, there was a great decline, the revenue in 1821 having been only 3,844,889*l.*, or 533,000*l.* under the amount before the imposition of three millions and a half of new taxes. He had, on a former occasion, stated it to be his opinion that the repeal of the taxes in Ireland would tend mainly to the revival of manufactures in that country, and bringing it into a prosperous condition. It was objected to him on that occasion, that he sought, by giving large and exclusive edvantage to Ireland, to raise her up into a manufacturing country, which should make her the rival of England and Scotland. While he disclaimed any such intention, he feared Ireland was far, indeed, from any such prosperity.—(*Hansard, volume XI., page, 659.*)

These figures, gentlemen, will tell you that England increased the taxation of Ireland by four millions, and what was the result?—why, as was to be expected, the actual revenue fell upwards of 500,000*l.*, so that the attempt to tax us four millions actually cost England one half a million. They increased our debt 230 per cent., while they increased their own only 60 per cent. Now, gentlemen, allow me to ask you what prosperity can we expect, what prosperity can we have while we allow the management of our monetary affairs to be invested in the hands of strangers? Can we be prosperous while the management of our revenue is in the hands of the English government? Would any of you leave the management of your affairs in the hands of a stranger?—or would you not expect that any man doing so would soon find himself a beggar? As it is with individuals, so it is with nations. I may be told that there has been a diminution of taxation. Yes, gentlemen, there has been a diminution of taxation since the peace; but, in what way has it been done? England has been relieved to the amount of 41,085,000*l.* while Ireland has obtained a diminution of her taxes to the amount of only 1,684,000*l.*, or in the proportion of one one-half to 41. That, gentlemen, is the justice with which we have been treated. But, gentlemen, this is not all, for by the change which was made in 1826 in the currency of the country, they added at least one fifteenth to the debts of Ireland. So much, gentlemen, for the justice with which we have been treated. Let me ask you, gentlemen, how can we prosper while we allow the hands of others to rummage in our pockets? An Irish parliament, while it would pay every shilling that is honestly due, would at the same time save us from the folly of paying that which is due by England alone. Now, gentlemen, I mean to leave this part of the case, trusting that I have shown you the evil mercantile effects which the union had on our common country. I will now, gentlemen, call your attention to the protest of the Lords against the union. I will not weary you by reading all the document. I will content myself with citing the 10th reason of the noble lords, which says, “because when we consider the weakness of this

kingdom at the time that the measure was brought forward, and her inability to withstand the destructive designs of the minister, and coupled with the act itself, the means that have been employed to accomplish it, such as the abuse of the place bill, for the purpose of corrupting parliament, the appointment of sheriffs to prevent county meetings, the dismissal of the old steadfast friends of constitutional government, for their adherence to the constitution, and the return of persons into parliament who had neither connexion nor stake in the country, and were therefore selected to decide upon her fate, when we consider the armed force of the minister, added to his power and practices of corruption, when we couple these things together, we are warranted to say that the basest means have been used to accomplish this great innovation, and that the measure of union tends to dishonour the ancient peerage for ever, to dismember both houses of parliament, and subjugate the people of Ireland for ever. Such circumstances, we apprehend, will be recollected with abhorrence, and will create jealousy between the two nations, instead of that harmony which for so many centuries has been the cement of their union." This protest, gentlemen, was signed Leinster, Meath, Charlemont, &c., and by the bishops of Down and Lismore. This is the authentic declaration of the peers of that day; and I feel certain that their descendants of the present day must be proud of the deed of their ancestors, and that they will yet assist in carrying out the intentions of their ancestors and yet take their seats in their places in College-green. Amongst the other evils to which the union gave rise, none was so oppressive as the total inadequacy of the representation of Ireland in the imperial legislature; and the great deficiency of voters created by the state of the registry. I am the more anxious to point out this defect, because I find that there is now a disposition to concede upon the point. They are now willing to do something in respect of the franchise; but let me ask how long has the injustice been allowed to exist? Let me call your attention to the following document, and it speaks trumpet-tongued of England's injustice :---

" FIRST REPORT ON THE FRANCHISE IN COUNTIES.

" The result of the injustice done to the people of Ireland by the restriction of the elective franchise is made manifest by a contrast between the population of the several counties in England, and the number of registered voters therein, with the population and number of registered voters in the different Irish counties. We take our statement of numbers from the parliamentary papers, and by comparing the least populous counties in England with the most populous in Ireland---Westmoreland and Cork, for instance---we find the following result :---The rural population of Westmoreland is 43,464, and its number of registered voters after the reform act amounted to 4,392. Nearly one out of every ten inhabitants. Whereas in the county of Cork the population is 703,716, and the number of electors registered after the Irish reform act, was only 3,835, being scarcely one out of every two hundred of the inhabitants.

" We ask, therefore, is this to be endured ?

" Here is Westmoreland, with less than one-fourteenth of the population of Cork, and yet it has an absolute majority of 557 registered voters ! Is this to be called reform ?

"Again, take the county of Bedford, with a rural population of 18,524 inhabitants; its registered voters under the Reform Act were 3,966, whilst Antrim, with a population of 316,909, had only 3,487 registered voters—that is, Bedford had an absolute majority of near 500 voters over Antrim, notwithstanding the enormous disproportion in the number of its inhabitants.

"Hertford, with a population of 95,977 inhabitants, had 5,013 registered voters; while Galway, with 381,564 inhabitants had only 3,061 electors.

"Rutlandshire, the smallest county in England, with only 19,385 inhabitants, had 1,296 voters, while Longford had only 1,294; absolutely two less than Rutlandshire.

"Again, Huntingdon, with a population of 47,779 inhabitants, had 2,647 voters; while Donegal, with a population of 289,149, had only 1,448 voters; and Limerick, one of the wealthiest counties in Ireland, with an opulent agricultural population of 248,801 inhabitants, had only 2,565 electors.

"Nay, even the Isle of Wight, with only 28,731 inhabitants, had 1,167 voters, while Mayo, with 356,328 inhabitants, had only 1,240 voters, and Protestant Tyrone, with a population of 310,000 inhabitants, had only 1,151 electors, absolutely 16 voters less than the Isle of Wight.

"The Island of Anglesea also, with a population of only 33,508 inhabitants, had 1,187 voters; while Kildare with 108,428 inhabitants, had only 1,112 voters; and Kerry with 265,126 inhabitants, had only 1,161 voters, just 26 voters less than Anglesea, and 6 less than the Isle of Wight.

"Even if we compare the largest counties in both countries, Yorkshire, with an agricultural population of 913,738 inhabitants, and Cork, with a population of 703,716, we will find that the English county had 33,164 electors, while the Irish one had only 3,385.

"We find, therefore, that England, in her rural population of 8,336,000 inhabitants, had 344,564 county voters, while Ireland, in a similar proportion of 7,027,509 inhabitants, had only 60,607 registered electors."

#### "SECOND REPORT ON THE FRANCHISE IN CITIES AND TOWNS.

"The consequence of all these defects in the Irish reform act is, that the disproportion between the number of electors in English and Irish cities and boroughs when compared to the relative population, is as great as in the counties. For we find from the same returns that, after the reform act, Exeter, with a population of 27,932 inhabitants, had 3,426 voters.—Hull, with 35,746 inhabitants, had 4,275 electors—while Waterford, with a population of 28,821 inhabitants, had only 1,278 electors, being in the ratio of three to one.

"Again, comparing the largest cities and boroughs in Ireland with the smaller ones in England, we find the following results:—

"Worcester, with a population of 27,313 inhabitants, has 2,608 voters, while Limerick, with a population of 66,554 inhabitants, has only 2,850 electors.

"Chester, with only 21,363 inhabitants, has no less than 2,231 voters, while Belfast the wealthiest, and most commercial city in Ireland, with 53,000 inhabitants, had only 1,926 electors.

"The city of Cork, with 110,000 inhabitants, has only 3,650 electors, including the non-resident freemen, while Newcastle-upon-Tyne, with a population of 42,260 inhabitants, had 4,952 voters. Preston, with a population of 33,112 inhabitants, had 4,204 electors—both of them more than Cork, which last city has more than treble the number of inhabitants, of either of the other two; and Bristol, with 104,338 inhabitants, not equal to the population of Cork, has 10,347 voters, being three times the constituency of the Irish city.

"If, too, we compare the smaller boroughs in both countries together, we find that those which barely escaped schedule A, with populations varying from two to 3,000 inhabitants, have more electors than the boroughs in Ireland, retained by the act of union, with from ten to 12,000 inhabitants,

"For example, Wallingford, Launceston, Wareham, Arundel, have all under 3,000 inhabitants, while the electoral constituencies in all exceed 300 voters. However, in Athlone and Bandon, with over 10,000 inhabitants in each, the voters do not exceed 250, and in many others, such as Kinsale, Coleraine, and New Ross, the available constituency falls far short of 200 voters.

"If also we compare the metropolitan constituencies of both countries, where an equality in household value may be expected, we will find that Dublin, with a population of 210,000 inhabitants, had only 9,081 voters, including all the bad freemen lately manufactured by the corporation, while the city of London, with a population of only 122,000 inhabitants, had 18,514 electors, and only 17,315 houses above 10*l.* value.

"Nothing can more clearly illustrate the disadvantages under which the Irish cities labour, with respect to the 10*l.* household franchise, than the comparison of the number of houses of 10*l.* a year clear value in London, and the number of electors upon that qualification, with the number of similar houses in Dublin, and of similar electors.

"These facts appear from parliamentary returns. The number of 10*l.* houses in the city of London are 17,315, and the number of electors appear to be 18,584; whilst in Dublin, the number of houses of 10*l.* value, according to Sherrard's valuation, amounted to 14,105, while the number of electors only amount to 9,081. Thus, in the city of London, there are more electors than 10*l.* householders, whereas in the city of Dublin the aggregate of electors does not amount to within one-third of the number of 10*l.* householders."

"WALES COMPARED WITH IRELAND.

"Wales has a population of 800,000. In Cork the rural population is 713,715. How are they respectively represented? Wales has twenty-eight members; Cork, with nearly the same population, has but two.

"Here is a parliamentary paper; it was published in 1832, and the sessional number is 206. It states the relative amount of the English, Scotch, Welsh, and Irish revenue in that year, and there is no similar paper of a later date that I am aware of:—

The Irish revenue was £4,392,000

The Welsh revenue was 348,000

This is the exhibition which the return makes of what the hon. member considers the superior wealth of the principality of Wales. That princi-



pality, in point of fact, falls below Ireland in any of those pretensions to representation founded upon wealth. I have looked into the amounts of the revenue collected in the single port of Cork, and they exceed that of the principality of Wales. There are no annual records to be referred to in such a case, but I find that in one year the customs of Cork amounted to 263,000*l.*, and that in another year the excise amounted to 272,000*l.* These amounts give, I believe, a fair average view of the revenue collected in the port of Cork, and their total is 535,000*l.* The receipts of Wales are only 348,000*l.* Cork, then, is entitled to more members than the entire principality of Wales, on these very grounds on which Great Britain justifies her overwhelming numerical superiority in the House of Commons. If Wales have not a representation disproportioned to her wealth, Cork ought to return 43 members to parliament."

Effect of union on comparative representation.

"I may now mention the effect in particular localities. In Wales the population is 800,000; in Cork the rural population is 713,716. How are they respectively represented in parliament? Wales, with its 800,000 inhabitants, 28 members of parliament; the county of Cork, with nearly the same population, has but two members of parliament: the county Mayo, with 400,000 inhabitants, has but two members of parliament: Wales, with 800,000 inhabitants, only double the number—has 28 members of parliament." The people of Ireland don't know these things, but I will take care they shall know it; and I anticipate easily the result. I will just give another specimen—I will take five counties in each country to show you how the representation stands. Cumberland, with a population of 126,681, has four members; the county of Cork, with a population of 713,716, has but two members. Leicestershire, with a population of 167,276, has four members. Tipperary, with a population of 390,598, has but two members. Northampton, with a population of 179,276, has four members. The county of Down, with a population of 337,571, has but two members. Worcestershire, with a population of 211,356, has four members. The county of Galway, with a population of 381,407, has four members. Wiltshire, with a population of 239,181, has four members. Tyrone, with 302,945, has but two members. That is to say—five English counties with a population less than a million—that is, with a population amounting to 953,770—have twenty members; and five Irish counties, with a population of 2,116,177, have only ten representatives."

Effect of union on comparative electoral franchises.

Absenteeism, surplus revenue, emancipation delayed, church grievance, paupers 2,385,000.

"Now let me show you the number of electors in six counties. Westmoreland, with a rural population of 43,464, has 4,392 registered electors. Cork, with a rural population of 713,716, has 3,835 registered electors. Bedford, with a rural population of 88,524, has 3,966 registered electors. Antrim, with a rural population of 316,209, has 3,487 registered electors. Hertford, with a rural population of 95,977, has 5,031 registered electors. Galway, with a rural population of 381,564, has 3,061 registered electors." Are you prepared, gentlemen of the jury, to say that that injustice should continue? Are you prepared to stigmatise eleven out of twelve of your

countrymen as men unfit for an equal representation? I insist, on the part of Ireland, that the legislative union is not a union but a servitude. It is an incubus on our property, by which the property of Ireland is converted to the purposes of England; and then complaints have been raised, and have been justly raised, as to the inadequacy of the representation. Gentlemen, Ireland returns to the imperial parliament 105 members---at the time of the union the number was 100. I am prepared to show upon Lord Castlereagh's own showing, the iniquity of this disproportion. It is clearly demonstrated. I am prepared to show the right of the Irish people to have at least 150 representatives. Everything from one end of the country to the other, shows the want of legislative protection. Lord Castlereagh took, as his ingredient on which to form his calculation, the proportion of exports and imports, and the amount of revenue in Ireland. Lord Castlereagh made the calculation thus: He said that in the relative population of the two countries, taking it that Great Britain had 558, that from the comparative population of Ireland she was entitled to 202 members---for exports 100---for imports 93---for revenue 39---making in all 434; and taking the mean of those quantities in makes 108½. That is what Ireland is entitled to upon this showing. The half member is not worth speaking of! But why cut off the eight? Lord Castlereagh committed an injustice, he proved himself unjust, and up to the present moment, notwithstanding the great exertions which were made at the time of the carrying the Reform bill, the English parliament would never consent to augment the numbers beyond 105. Mr. Newenham immediately corrected the calculation made by Lord Castlereagh. Mr. Newenham allows for comparative population 228, for exports 179, for imports 168, for limits 85, for rental 186, making 846, and the mean of those five quantities is 169½. If you look to the last Financial Report of 1831, you will find that the revenue credited to Great Britain was 48,325,215*l*. At that time the teas imported into Ireland paid a duty in England. In this way Ireland paid a sum of 500,000*l*., whilst other customs' articles amounted to 1,000,000*l*. This left the real revenue of Great Britain 46,825,897*l*., and the amount of revenue credited to Ireland was 6,060,897*l*. Now, suppose you take credit for the Irish revenue at the rate of one-tenth of that of Great Britain, instead of being what it really was, one-eighth; then the calculation for the number of members at the time of the passing of the Reform Bill would have given to Ireland 307 members in respect to her population, that is for revenue, say one-tenth—50; that would make 357; and the union of these two would entitle Ireland to 175 members. This proves to demonstration that Ireland has been defrauded in her franchise, in every one of the details in a financial point of view in every detail of the union compact. But why should I fatigue you with these details? Have we not sustained manifest inconvenience and injury from the union? Is it not a great inconvenience to have a distant legislature? Is it not a manifest injury to all our commercial pursuits—to our agricultural prosperity—to our manufactures! Again, I call upon you to look at the expenses of a distant legislature. Then, gentlemen, can anything be more frightful than the expenses of the election committees? Every witness must be brought over to England and kept there at

an enormous expense. If you let your witness go home it may be necessary to have him called back, or new matter may be started before you can call him back, the point may be decided against, and you may loose your expenses, or your seat, or your right to turn out your opponent. It is nothing, gentlemen, if all that was expended in Dublin, if the parliament was here, and that it was circulated among the profession at home, whereas at present there is not an Irish lawyer who is one single fee the better of this enormous expenditure, it all goes into the pocket of the English barristers. Gentlemen, are you not aware that a considerable reduction of expenditure was occasioned by the different boards for the management of the revenue being placed in Ireland. Are any of them located here? What became of the Treasure Board? Transplanted to England. What became of the Customs' Board? Transplanted to England. What became of the Excise Board? Transplanted to England. The Stamp-office, and the other public departments have been greatly diminished in extent and number, and are in progress of extinction. The Post-office is another subject of complaint, because it is considerably reduced in extent, and the great bulk of the business. Even the Old Man's Hospital is extinct. I ask you, gentlemen, is it fair or reasonable that this centralization is to be continued, all operating against us, and in favour of England? See what a picture even the *Evening Mail* draws of the effects of this system. Let me first observe that the Lord Lieutenant of Ireland is an Englishman; the Chief Secretary of Ireland is an Englishman; and the Lord Chancellor is an Englishman. The writer in the *Mail* proceeds, in answer to an article in the London *Times*, relative to this topic of complaint:—"The Archbishop of Dublin is an Englishman; the Chief Administrator of the Irish Poor Law is an Englishman; the Paymaster of Irish Civil Services is a Scotchman; the Chief Commissioner of Irish Public Works is an Englishman; the Teller of the Irish Exchequer is an Englishman; the Chief Officer of the Irish Constabulary is a Scotchman; the Chief Officer of the Irish Post Office is an Englishman; the Collector of Excise is a Scotchman; the head of the Revenue Police is an Englishman; the second in command is a Scotchman; the persons employed in the collection of the Customs are English and Scotch, in the proportion of thirty-five to one."

"But the *Times* may perhaps observe—'True, but all this is only the elucidation of unbarring the gates of preferment unsparingly and honestly.' Scotchmen and Englishmen are placed in office in Ireland, and Irishmen, in return, in Scotland and England, in order to draw closer the bonds of union between the three united nations."

"Again—let us see how facts actually stand. There are cabinet ministers—Englishmen, 10; Scotchmen, 3; Irishmen, none!

"The Duke of Wellington scarcely considers himself an Irishman, and certainly cannot be called a representative of Irish Interests in the cabinet."

"Lords of the treasury—Englishmen, 4; Scotchmen, 1; Irishmen, 1. Clerks of the Treasury—Englishmen and Scotchmen, 112; Mr. Fitzgerald [query an Irishman?] 1. Members of the Lord Steward's and Lord Chamberlain's Household—Englishmen and Scotchmen, 225; Irishmen, 4. British Ministers to Foreign Courts—Englishmen and Scotchmen, 131;

Irishmen, 4. Poor Law Commissioners---Englishmen, 3; Irishmen, none. "We presume," adds the editor, "that these facts show that the natives of the three kingdoms are all placed upon an equal footing! the chances of access to preferment to an Englishman or Scotchman in Ireland being in the few instances that have occurred to us while writing, as 6 to 0; while the probability of an Irishman obtaining place in England appears, from an analogous calculation, to be in the proportion of 491 to 10, or as 1 to 50. He could easily swell, he adds, this list, were it necessary."

Gentlemen, I have read this to show the meaning of the phrase, "Ireland for the Irish, and the Irish for Ireland," and that the pretext is totally fallacious, that Irishmen are promoted in England, while English and Scotchmen are appointed to situations in Ireland. I now proceed, gentlemen, to show you the other evil results of the union on the condition of this country. In 1807, Mr. Fox, viewing its effects upon the state of the nation, remarks of Mr. Pitt:---

"Such is the right hon. gentleman (Mr. Pitt's) intencity upon this great question, that the measure which was to be the remedy becomes the source of all distempers. Instead of quieting, he has agitated every heart in that country. The epoch from which was to begin the reign of comfort and confidence, of peace, and equity, and justice, I marked, even on its outset, by the establishment of that which rests every civil blessing on the caprice of power. Ill-starred race! to whom this vaunted union was to be the harbinger of all happiness, and of which the first fruit is martial law---or, in other words, the extinguishment of all law whatsoever."

Charles James Fox in 1806 says---"The Union was atrocious in its principle and abominable in its means. It was a measure the most disgraceful to the government of the country that was ever carried or proposed."

Gentlemen, I read for you, a while ago, a statement showing the increase of the consumption of various articles from the period of the restoration of the Irish parliament up to the union. Now let me read to you a return showing the increase or decrease up to a later period. I find the respective consumption of tea, coffee, sugar, tobacco, and wine, from the time of the union to the year 1827, to be stated in the following manner:---

Tea.....	Increase in England.....	25 per cent.
	Increase in Ireland.....	24 per cent.
Coffe....	Increase in England.....	1800 per cent.
	Increase in Ireland.....	400 per cent.
Sugar...	Increase in England.....	26 per cent.
	Increase in Ireland.....	16 per cent.
Tobacco	Increase in England.....	27 per cent.
	Decrease in Ireland.....	37 per cent.
Wine....	Increase in England.....	24 per cent.
	Decrease in Ireland.....	45 per cent.

"Decrease of consumption in Ireland from 1802 to 1823, from tables published by Mr. Halliday:—

IMPORTED INTO IRELAND.				
Green Tea.....	1802	...	...	152,674lbs.
	1823	...	...	38,168
Decrease	...	...	...	114,596 lbs., or about $\frac{1}{4}$ lbs.
Port Wine.....	1802	...	...	4,487 Tons.
	1823	...	...	1,014
Decrease	...	...	...	3,473 Tons, or about $\frac{1}{4}$ lbs.
French Wines	1802	...	...	454 Tons.
	1823	...	...	121
Decrease	...	...	...	333 Tons, or about $\frac{1}{4}$ lb.

Again, with regard to the export of cattle, I wish, gentlemen, you would follow me for a moment, because the defenders of the union ordinarily lay much stress upon the increased export of cattle:—

"The defenders of the union ordinarily lay much stress on the increased export of cattle, sheep, and provisions, since that measure. This export, however, is from a starving people; and being so, the argument, as to its great value to Ireland, is not one to waste much time in considering. A curious fact has come out with reference to this subject. A return appeared in all the Dublin papers, last November, of the number of sheep and horned cattle at the great fair at Ballinasloe, every year from 1799 to 1842. The following extract from it we put in the same table, with figures, from a parliamentary return of 1843, and the Irish Railway Report, showing the export of the articles mentioned in two of the years included. We have no return of the export last year:—

Years.	Sheep.	Export of do.	Horned cattle.	Export do.
1799	77,900	800	9,900	14,000
1835	62,400	125,000	8,500	98,000
1842	76,800		14,300	

"The question naturally arises---what became of the 77,000 surplus sheep in the first year, as well as the sheep at other fairs? They were eaten at home.

"As oxen, 14,000 went away in 1799, and 98,000 in 1825; yet if we test the product of all Ireland in the former year, by the most sufficient criterion of the amount at Ballinasloe fair, we shall find that Ireland had then more for sale than in 1835, and consumed the greater part of the surplus over her export---exporting the remainder in the more valuable form of provisions.

"The parliamentary documents quoted before, enables us to show what the export of provisions was in the year 1792, and 1835:—

Year.	Export of cattle.	Swine.	Beef and Pork Brls.
1799	14,000	4,000	278,000
1835	98,000	76,000	140,000

"There has been since the union a decrease of the more valuable export, viz., provisions—valuable, because of the labour employed at home in their manufacture; and an increase of the less valuable, viz., the live animals—less valuable to a country as an article of export, by reason of the small quantity of employment which is given in the preparing of it.

"As the diminution of the number of barrels of beef and pork will not, by any means account for the great increase of the live export, while the whole number of cattle produced in Ireland in 1835, was, at any rate, not greater than in 1792—it follows that much of the excess of live export in 1835 must have been by deduction from the number previously consumed at home, and therefore, that the home consumption in the latter year was considerably less than in the year before the union, notwithstanding the cent per cent increase of population."

Gentlemen, I will next call your attention to a speech of Doctor Boyton's, in which he has given us the advantage of close research:—

"The exports and imports, as far as they are a test of a decay of profitable occupation—so far as the exports and imports are supplied from the parliamentary returns, exhibit extraordinary evidences of the condition of the labouring classes. The importation of flaxseed (an evidence of the extent of a most important source of employment) was—In 1790, 339,745 barrels; 1800, 327,721 barrels; 1836, 496,458 barrels. The importation of silk, raw and thrown, was—In 1790, 92,091lbs; 1800, 79,060lbs; 1830, 3,190lbs. Of unwrought iron, in 1790, 2,271 tons; in 1800, 10,241 tons; in 1830, 871 tons. Formerly we spun all our own woollen and worsted yarn. We imported in 1790 only 2,294lbs; in 1800, 1,880lbs; in 1826, 662,750lbs. An enormous increase. There were, I understand, upwards of thirty persons engaged in the wollen trade in Dublin, who have become bankrupts since 1821. There has been doubtless, an increase in the exports of cotton. The exports were—in 1800, 9,147 yards; 1826, 7,793,873. The exports of cotton from Great Britain were—in 1829, 402,517,195 yards, value 12,561,247*l.*, which will give the value of our cotton exports at something less than a quarter of a million—poor substitute for our linens, which in the province of Ulster alone exceeded in value two millions two hundred thousand pounds. In fact, every other return affords unequivocal proof that the main sources of occupation are decisively cut off from the main body of the population of this country. The export of live cattle and of corn has very greatly increased; but these are raw material; there is little more labour in the production of an ox than the occupation of him who herds and houses him; his value is the rent of the land, the prices of the grass that feeds him, while an equal value of cotton, or linen, or pottery will require for its production the labour of many people for money. Thus the exports of the country now are somewhat under the value of the exports thirty years since, but they employ nothing like the number of people for their production; employment is immensely reduced; population increased three-eighths. Thus, in this transition from the state of a manufacturing population to an agricultural, a mass of misery, poverty, and discontent, is created."

I will next refer to the report of Doctor Stack upon the state of Dublin, with regard to the mendicancy in Dublin:—

"The Sick poor Institution, since its establishment in the year 1794,

has shared in the sad reverse which the locality has undergone over which its operations extended. The Liberties of Dublin, once the seat of manufactures and of wealth, have degenerated into the habitation of the decayed or unemployed artisan; the abode of fashion has now become proverbially the haunt of vice, and poverty, and disease; hence, while the necessity for such an institution as this has become every day more urgent, the supporters of it have proportionably diminished—as the objects of relief have increased, its friends have decreased. In order at once to perceive this altered state of things, a mere inspection of the returns made at the different periods is all that is necessary. In 1798, patients, 3,640; income, 1,035*l.* 17*s.* 1*d.*; 1841, patients, 16,159; income, 367*l.* 4*s.* 10*d.* I have a list here of the houses of the noblemen and gentlemen in Dublin in 1800, which are now converted into hotels, or divided into small shops, and, in fact, some of them are not occupied at all. I have a list of the manufacturers in the woollen, silk, and cotton trades, from which it appears that the number of tradesmen in Dublin in 1800 amounted to 61,075; the number existing in 1834 was 14,446; of these there were then idle 4,412, showing a decrease of 51,041 in the number of persons employed. I will now come to show you the falling off in manufactures in Dublin since the union. In 1800 there were ten thousand and twenty persons employed in the manufacture of woollen goods in the liberty, and ninety-one master manufacturers. In the year 1834 there were not more than one hundred looms. In 1800 there were thousands upon thousands employed in the woollen and silk trades in and about Dublin, all upon full wages; but what is the case now? There were a miserable few upon half wages. There is not a trade in Dublin that has not suffered from the withering effects of the union. I have a return here which shows that in 1800 there were upwards of 68,000 tradesmen in full work in Dublin, while at present there were not more than 4,000, and there would not be even that number but for the transformation of private dwellings into lodging-houses, and the buildings which are going on at Kingstown. I have been lately making inquiries into the state of the liberties of Dublin, and the answer is comprised in one word—they are all one mass of ruin. In 1800 there were seventy-eight master silk manufacturers, as well as ninety-four woollen ones, whilst at present there is hardly one of either. House property has fallen to such a degree that those who had enjoyed independent means of that kind, are now in a state of pauperism themselves. Then to come to the splendid mansions of the nobility. Where are they? Where is Powerscourt house, or rather what has it been turned to? It is merely the depot of an English import house, or rather a respectable Irish company who import English goods. What has become of Moira house, the residence amongst us of the Plantagenets? You all know that it has been transformed into a mendicity. What has become of Belvidere house which cost 28,000*l.* to build, and the stables 3,000*l.*? Why, it has the other day passed into the hands of the Jesuits for a sum of 1,100*l.*, and is now used by them as a school. Now, when we see these things—when we see the fading state of our commerce, and the falling off in every species of property, are we not to make some effort to rescue our country from such misfortunes? The question is, are you, by your verdict, to throw any obstacle in the way of those who are honestly endeavouring

to obtain that object? Yes, I do appeal to you, and ask you have I not presented such a feature to you as ought to make every honest man rally with those who are endeavouring honestly and peaceably to rescue their country from ruin? You have distinctly before you the objects which those who seek for repeal have in view, and the means by which we hope to achieve it. It is our pride and our boast to do what we have done, but we repudiate with scorn and indignation that we have been guilty of any crime whatever, or that we have had any other object in view than those I have stated. We wish not to restrain the prerogatives of the Queen, but, on the contrary, to give them full force and effect. We wish to restore the representation of the House of Commons—we wish to give liberty and equality to all. Now, I admit that you have a perfect right to ask what are the means by which we hope to obtain the advantages for which we seek, and to restore our country to the condition she was in before the union. Whatever may be the modes we are to follow in detail, and whatever our conduct has been, there was nothing of a sectarian character in anything we ever did or contemplated. This is a charge which never could be made against us. The Catholics of Ireland never acted upon sectarian principles in anything they ever did. I will turn to their proceedings before the union, and when their own emancipation was discussed in the year 1795, there was a meeting of Catholics in Francis-street chapel, at which Mr. Sweetman presided, and on that occasion they passed resolutions to the effect that they would sooner relinquish their own rights and liberties, than be parties to the destruction of their legislative independence. They said that they would resign all claim to their own emancipation sooner than that it should be accompanied by a union with England. Here was the manner in which the Catholics of Dublin acted even before they were themselves emancipated. I will now refer you to the first public speech I ever made in my life, and you will see that it is a fair epitome of all I have ever said since. It was made on the 13th of January, 1800. (He then read the speech, which has already appeared in the course of the trial.) That was my first public declaration. In the sincerity of my soul I made that declaration—in the sincerity of my soul I made that offer. It might have been taken up; there was a strong party in the country at that time highly unfavourable to the Roman Catholic claims. But I risked it, and I repeat, in the sincerity of my soul, I made the declaration that I would prefer the re-enactment of the penal code in all its horrors than consent to the union; and I threw myself upon the generosity of my fellow countrymen, the Protestants of Ireland. Gentlemen, in 1810, you have already heard, the repeal was brought forward, and public meetings were held in the city of Dublin. My speech upon one of those occasions has been read for you. I won't distress you by reading anything like the entire of it; but allow me to read for you the concluding passages, because it bears upon the topic I am now discussing. (Here the hon. and learned gentleman read the passage alluded to.) Is that sectarianism? Is that preferring the interests of a party or portion of the people to the nation at large? Sectarianism! Why, gentlemen, you cannot but be aware that the cause of the Protestant Dissenters of England was warmly advocated by me—that it was I who drew up the petition in favour of the English Protestant



Dissenters---that the petition was signed by 28,000 Catholics, passed at meetings of the Association, and afterwards at the great aggregate meeting of Catholics, and that petition which I drew up was not upon the table of the House of Commons six weeks, when the Protestant Dissenters of England were emancipated. I therefore treat with contempt and indignation the idea of sectarian difference; and again throughout the entire volumes that have been presented to you, has there been one word of a bigoted description found amongst them. I have made more speeches than any other public man that ever existed---I have been more abused than any other man, but amidst all their calumnies they never flung upon me an accusation of bigotry against my fellow-beings of any other persuasion. I have been calumniated in everything else---in that I have been spared, and why? because the folly and futility of the calumny was so excessive that even my calumniators spared me on that point. Sectarianism, therefore, is out of the question; but what was our mode? legal, and peaceable, and constitutional proceedings. I need not remind you again that I possess the confidence of the Irish people. I possessed it with a full repetition of my determination that all should be peaceable---with my full declaration that one single act of violence would detach me from the repeal agitation. But it has been said I made violent speeches. Has any violence proceeded from me? If I have made violent speeches, would not it be fair to give me a recent and speedy opportunity of seeing how far the reports of those speeches were accurate, and what explanatory portions were applicable, and not reserve them from so remote a period. If violence is to be talked of, let us see is this violence; it is an article taken from the *Cheltenham Journal* :---

FROM THE CHELTENHAM JOURNAL AND STROUD HERALD, AUGUST, 2, 1841.

"What would, in reality, be justice to Ireland? What would be the greatest blessing that could be conferred on Ireland? The answer to these questions is prompt, and comprised in a single word---*conquest*. Few are the nations, if any, that are the worse for having been conquered; and in the great majority of instances, as conquest implies superiority, the conquered have been gainers. The Romans were conquered, and where they conquered they also civilized.

"Now, Ireland, though under the dominion of England, has never been *conquered* by her. She may take this in the light of a complaint, or the reverse. To this day she is wild, savage, uncivilized, scarcely human! We speak of the mass of the people; of the aborigines of the island; of the popish part of the population; of the wretched and ferocious slaves of O'Connell; of those who have never been brought under the gentle sway of the Protestant faith.

"Had Ireland been actually conquered by England it would not have been thus.

"The first step towards the conquest of Ireland would be to send over a commanding military force, not to shed blood, but to prevent the shedding of blood.

"Every individual popish priest should then be secured and exiled for life, nor be permitted to return under the penalty of death; and all persons

found aiding and abetting a popish priest in secreting himself, should alone be condemned to exile for life.

"These men, the priests, &c., might be shipped for some of the colonies, and there receive allotments of land, and there be kept under strict surveillance.

"Such is a simple outline of measures for the bloodless conquest of Ireland.

"It is for a Conservative government alone to achieve this glory. Let Sir Robert Peel and his colleagues look to it."

It appears by those papers that we did not threaten anything, and it appears distinctly that every disclaimer, and repetition of disclaimer, not to use anything but peaceable and legal means was given over and over again. There was no violence of any kind; none whatever had taken place. We are now charged with a newspaper conspiracy, because it is alledged that certain newspapers contained libels. Why, if they did, there is no person in the world more open to, or capable of punishment for an offence than a newspaper proprietor. He is perhaps more in the hands of the law than any other man in existence. There is the Stamp-Office, which must know all about him, and the moment he offends they have nothing to do but call on him to account for his actions. The Attorney General had this facility if he wished, or if the libel law had been infringed. But there is one thing in the so-called newspaper conspiracy that cannot be got over. Take up the *Nation* out of which was read for you, a great deal of prose and a quantity of poetry; love songs and all (laughter), and then take up the *Pilot*, which was also read for you; all prose and no poetry; take up any of these articles, and can you say that one of the journals copied the other? Can they produced any one of these papers where the other copied an article from it? No, they cannot: and they could not charge them with conspiracy unless they joined for that purpose. In place of conspiracy they would find discord not concord, between them. There was not a particle of combination amongst them. In fact, there was not only no combination amongst them, but a kind of rivalry and jealousy relative to these articles. Was that like combination or crime? I will not go into that question at present, as it is so well ascertained. Well, gentlemen, one word about Arbitration Courts. I shall not trouble you with many observations on that head. One of the great advantages of these courts, however, was the abolition of unnecessary and superfluous oaths. There was no oath taken in these courts at all. Gentlemen, I do not know if it strikes you in the same light as it strikes me on the subject of oaths; but I think the establishing of such courts a great advantage in that respect. In the superior courts the oath was a different thing; but I ask any Christian man if he would not wish to see unnecessary swearing abolished. I find by a Parliamentary return in 1832 that there were one hundred and seventy-two thousand oaths taken in the excise department, and in another year one hundred and fifty-eight thousand in the excise also. This was an unnecessary profanation of the name of the Deity—one hundred and fifty-eight thousand oaths in one year, and one hundred and seventy-two thousand in another! What an enormous quantity of unnecessary oaths! In the Arbitration Courts there was no oath whatever necessary. I shudder at the idea of so many oaths being taken in one year, I had several conversations on the subject, and Lord Nugent did me the high honour to ask my assistance in bringing

in a bill to abolish unnecessary oaths and substitute a declaration in their stead. I consented and we succeeded in passing a bill substituting declarations instead of oaths, and I hope I shall see the day when such will be extended even farther, for I abhor the taking of the sacred name of God in vain, and the man who would tell an untruth in a matter of property would not set the least value on his oath, nor would he at all scruple swearing to what he knew to be false if he thought it ripe for his purpose. I hope, gentlemen, we will see the day when declarations like the Quakers, which are as binding on the conscience as the oath, will be substituted and used as an oath by all Christian men and in all Christian countries. I am sure you will not ascribe conspiracy to that, I am satisfied. Well, gentlemen, I now come to the means by which we were to achieve the repeal of the legislative union. The means are pacific, and I would not adopt any other means for the accomplishment of that sacred object. It was said that the meetings were not commensurate with the objects in view, but the object was one that could not be ascertained if the entire Irish people had not called for the repeal of the union. A charge of that description should not be made when the Irish people demanded it. The words of Grattan were that the demand was made backed by the voice of the Irish. I re-echo that word, and the minister was bound to obey that call. We have made the experiment, and we find that the mind of the nation is in favour of a domestic legislature. We have made the experiment—we did not do so without the enunciation of the voice of the Irish people. We have that voice from one end of the country to the other. The voice has gone abroad, and it only remains for the Irish people to call for the restoration of their Irish parliament. When I brought the question before the House of Commons the members who supported it were small, only one Englishman, and not one Scotchman. But what was the change since with regard to the measure? And was it not idle and absurd in the last degree to say anything was intended save the regeneration of the country by the most peaceable means. What has the Crown read as part of the conspiracy? Why, the rules of the Association. (He then read the rules.) Mr. O'Connell then continued—This, gentlemen, is the plan of the Repeal Association. No alternative was held out by these rules but the fullest allegiance, the most perfect loyalty, unqualified peace; and in this way, and no other, was agitation to be conducted. Yet under these circumstances we have the charge of combination made against us, which amounts to one of conspiracy. That document, gentlemen, is given in proof against us. Well, however, to carry their proof further, the Crown have read two other documents. The first is—"The reconstruction of the House of Commons," and the second, "The renewed action of the Irish Parliament." The first of these was signed on the 14th of May, 1840, and the second upon the 22d of August, 1843. Now, my lords, this has been read against us as evidence of a conspiracy. And although it has been read before, I think it my duty to read it again.

Chief Justice—What is the date of the document you are about reading from, Mr. O'Connell?

Mr. O'Connell—The 14th of May, 1840, my lord. Mark, gentlemen, that after taking the scale of representation from the returns of the population of the different towns, it begins at page 7 thus :—[Here the honourable and learned gentleman read the extract.] Mr. O'Connell then

proceeded---Part of that document has been read by the Crown, and that part of it distinctly states that by Parliamentary means, and by parliamentary means only, was repeal to be obtained. I shall call your attention by-and-by to a portion of that document. The next document was also read, and I am entitled to the full force of all it contains. The crown had no right to select portions from it, and I am entitled to the benefit of the unobjectionable parts, for they had no right to suppress them. [Mr. O'Connell then read "The renewed action of the Irish Parliament"]. There, my lords, is the evidence for the prosecution; there is the evidence to prove a conspiracy; there is the evidence to prove illegal means; there is the evidence to prove illegality. Gentlemen of the jury, I put it to you, it is not my evidence, 'tis not I produce it, 'tis not we who have called upon it in our defence, though it does contain, I think, an admirable defence; but it is brought before you on the part of the crown, and produced by the Attorney General; that is the Attorney General's evidence, and upon that evidence I call upon you to acquit us—you are bound to believe it. There is the plan for repeal, what fault do you find with it. There is a theory introduced into it not called upon for practice, but I insist upon my right to discuss that theory. I may be wrong, but it is a great constitutional question which man is at liberty to discuss, and form his own opinion upon. The opinion may be erroneous, but the right is undoubted, and I insist upon it that question ought to be considered in a way favourable to the claims of Ireland. The competence of the Irish parliament to pass the act of union was discussed long before the union itself was talked of. One of the works by which the revolution of 1688 was consolidated, was a book written by Mr. Locke upon government. He wrote it for the purpose of sustaining the Whigs of that day; the Williamite Whigs; to prove that James had no title to the throne, and that William was the lawful monarch of England in consequence of what had happened. That book, gentlemen of the jury, was a class book in Trinity College at the time the union passed. It was a book out of which the young men were examined. Shortly after the union it was found inconvenient to let it remain, and for some reason, I don't know the cause, but it was withdrawn. But at one time it was a book of authority, and requiring not any council to give it authority; it was the great instrument by means of which the revolution of '88 was achieved, the principle of which revolution no man admired more than I do. In Locke's book on government I find:—

"The legislature (he says) cannot transfer the power of making laws into other hands, for it being but a delegated power from the people, they who have it cannot pass it over to others. The people alone can appoint the form of the commonwealth, which is by constituting the legislature, and appointing in whose hands that shall be; and when the people will have said we submit and will be governed by laws made by such men and in such terms, nobody else can say other men shall make laws for them. The power of the legislature being derived from the people by a positive voluntary grant and institution, can be no other than what the positive grant conveyed, which being only to make laws and not to make legislatures, the

legislature can have no power to transfer their authority of making laws, or to place it in other hands."

No doctrine can be more distinct. No delegated legislature, elected for a time, had power or authority to transfer the rights of their constituents to any body else. Upon this subject Lord Grey was very explicit.

"Lord Grey (then Mr. Charles Grey) said in the British House of Commons—'Though you should be able to carry the measure, yet the people of Ireland would wait for an opportunity of recovering their rights, which they will say was taken from them by force.'"

But I have a still more explicit authority, Hear this passage from the speech of Mr. Saurin, spoken on the 15th of March, 1800, read by me on the trial of John Magee, in his presence, and adopted with manliness by the Attorney General of the day:—

"Those great men had assigned in the revolution of 1688—they had put down the slavish doctrines of passive obedience—they had declared that the King held his crown by compact with the people, and that when the crown violated that compact, by subverting, or attempting to subvert, the constitution which was the guarantee and safeguard of that peoples' liberty, the crown was forfeited, and the nation had a right to transfer the sovereign power to other hands. They had no notion of the doctrines, which he was sorry to see now received—that the supreme power of the state was omnipotent, and that the people were bound to submit to whatever that power thought proper to inflict upon them. At that day such a monstrous proposition as this would not have been tolerated, though now it began to raise its head and threaten the constitution. But he for one would not admit it; he would re-assert the doctrine of the glorious revolution, and boldly declare in the face of that house and of the nation that when the sovereign power violated that compact, which at the revolution was declared to exist between the government and the people, that moment the right of resisting that power accrues. Whether it would be prudent in the people to avail themselves of that right would be another question; but surely if there be this right in the nation to resist an unconstitutional assumption of power which threatened the public liberty, there could not occur a stronger case for the exercise of it than this measure would afford if carried against the will of the majority of the nation. If a legislative union should be so forced upon this country against the will of its inhabitants, it would be a nullity, and resistance to it would be a struggle against usurpation, and not a resistance against law."

That was alleged, too, with reference to a period after the union was carried; that is, looking to its having all the sanction of form; the great seal of England on the one hand, the great seal of Ireland on the other, and the consent of the crown given to it; yet Mr. Saurin, talking constitutional doctrine, declared it to be a nullity, and resistance to it a matter of prudence. And in a second speech of his, which was published in the shape of a pamphlet.

"You may make the union binding as a law, but you cannot make it obligatory on conscience. It will be obeyed so long as England is strong, but resistance to it will be in the abstract a duty, and the exhibition of that resistance will be a mere question of prudence."

I will quote again from Lord Chief Justice Bushe :---

"The basest corruption and artifice," he says, "were excited to promote the Union. All the worst passions of the human heart were entered in the service, and all that the most depraved ingenuity of the human intellect tortured to devise new contrivances for fraud."

Listen now to another great authority---Lord Chancellor Plunket. He, addressing the House of Commons, said---"Sir, I, in the most express terms, deny the competency of parliament to do this act. I warn you, do not dare to lay your hands on the constitution. I tell you that if, circumstanced as you are, you pass this act, it will be a mere nullity, and no man in Ireland will be bound to obey it. I make the assertion deliberately. I repeat it. I call an any man who hears me to take down my words. You have not been elected for this purpose. You are appointed to make laws, and not legislatures; you are appointed to exercise the functions of legislators, and not to transfer them; you are appointed to act under the constitution, and not to alter it; and if you do so, your act is a dissolution of the government; you resolve society into its original elements, and no man in the land is bound to obey you. Sir, I state doctrines that are not merely founded on the immutable laws of truth and reason; I state not merely the opinions of the ablest and wisest men who have written on the science of government; but I state the practice of our constitution as settled at the era of the revolution; and I state the doctrine under which the House of Hanover derives its title to the throne. Has the king a right to transfer his crown? Is he competent to annex it to the crown of Spain or any other country? No, but he may abdicate it, and every man who knows the constitution, knows the consequence---the right reverts to the next in succession. If they all abdicate, it reverts to the people. The man who questions this doctrine, in the same breath must arraign the sovereign on the throne as a usurper. Are you competent to transfer your legislative rights to the French Council of five Hundred? Are you competent to transfer them to the British parliament? I answer, no! If you transfer, you abdicate; and the great original trust reverts to the people from whom it issued. Yourselfs you may extinguish, but parliament you cannot extinguish. It is enthroned in the hearts of the people, it is enshrined in the sanctuary of the constitution; it is as immortal as the island which it protects. As well might the frantic suicide hope that the act which destroys his miserable body, should extinguish his eternal soul! Again, I therefore, warn you. Do not dare to lay your hands on the constitution, it is above your power."

Oh! it is a beautiful passage---"As well might the frantic suicide hope that the act which destroys his miserable body should extinguish his eternal soul! Again I therefore warn you. Do not dare to lay your hands on the constitution---it is above your power." I insist on the truth of that constitutional law. I take the qualification as laid down by Saurin---it is binding as a law, while it continues to have the form, and shape, and pressure of law---but it does not bind on conscience, or principle, or right---though it had been said to me, "why this would make all the acts which were passed since the union void." I deny it---it would do no such thing. I say they are voidable, but not void. It has been said, you would by that

repeal even the emancipation act. If I could get the repeal of the union I would make you a present of emancipation. Where do I find the principles of its being voidable, not void. I find it in the language of Saurin, I may be wrong in this position, but I cannot be wrong to argue from it. It may be said that this act is to be obeyed, and it is to be considered as law. Gentlemen of the jury, the point was raised already in 1782, when the Irish parliament declared that no power on earth could bind the Irish people but the King, Lords, and Commons of Ireland; and there was an act passed to that effect, the consequence of which was to do away with the authority of all laws passed in England, and which were binding on Ireland, though they regulated the property of Ireland; but Chief Baron Yelverton stepped in, and by his act declared all laws passed in England to be binding in Ireland, and that they should continue to do so. But it may be said is inconsistent with our allegiance--I deny it; for this authority exists in the Queen, which can only be exercised through her responsible minister. It is no derogation of her power--it is rather an increase of that power. And I shall be told this of a country which had made so many irregular successions? Richard the Second was dethroned by parliament--so was Richard the Third, and Henry the Seventh set up. When also the royal succession was altered in the reign of Henry the Eighth, and settling nothing, there was another alteration at the time of the revolution in 1688; so that there could not be anything illegal in discussing this question. Surely not. There may be a mistake---there may be an error, but there cannot be crime to discuss the matter publicly, undesignedly, and with the sustentation of the authorities I have addressed. You have Saurin and Plunket---you have Locke---you have Lord Grey giving his opinion in favour of it. I draw to a close. I now come back to the evils of the union, and I would look to every honest man to exert himself for its repeal. Would it not cure the odious evils of absenteeism? It was calculated by an able man that 9,000,000*l.* a-year pass out of this country; the railway commissioners reduce it to 6,000,000*l.* Take the reduced amount, and I ask, did ever a country suffer such an odious drain of 6,000,000*l.* of absentee money?---6,000,000 raised every year in this country not to fructify it---not to employ the people of the country---not to take care of the sick, and poor, or desolate---but 6,000,000*l.* are transplanted to foreign lands---sent there but giving no return---leaving poverty to those who enriched. Take 6,000,000*l.* for the last ten years. Look now at 60,000,000*l.* drawn from this unhappy country. Take it for the next six years---can you in conscience encourage this? There is a cant that agitation prevents the influx of capital. What is the meaning of that? We do not want English capital; leave us our own 6,000,000*l.* and we shall have capital in abundance. We do not want that left-handed benevolence which would drain the country with one hand and let in niggardly with the other. There is another item which exhausts the resources of this country, and that to the amount of nearly 2,000,000*l.* annually; in the last year it was so low as 760,000*l.*; but, whether the one or the other, it is drawn out of the country never to return. There is again the Woods and Forests. That department receives 74,800*l.* a year out of Ireland in quit-rents, &c. How was that expended for the last ten years? Between the Thames

Tunnel and to ornament Trafalgar-square. We want an additional bridge in Dublin. Why have we not the 74,000*l.* for that purpose? Have we not as good a right as that it should be expended on Trafalgar-square? If we had the parliament in College-green would that 74,000*l.* be sent to adorn a square in London? Have we not sites and squares enough in Dublin for the purposes of public utility? There are other evils attending this continued drain on the country. I remember there having been quoted in parliament the work of Mr. Young, a political economist, who journeyed in Ireland in '78, who, in speaking of the increase of the population accounted for it by the never-failing bellyful of potatoes---they had all a bellyful of potatoes, and to that he attributed the increase. But is that the case now? Has not the country sensibly declined---is not even one meal of potatoes a treat and a treasure? According to the evidence of the Commissioners of Poor Law Inquiry the people are now in rags. Was this my language? No, gentlemen, I appeal to yourselves---are they not reduced to misery and wretchedness, frittered away by periodical famine? and there were six or eight since the union. There was relief from England, while provisions were in quantities transported from this country; provisions were in the country while the people were perishing with hunger; but those provisions were exported from the country. But the Poor Law Commissioners report the following frightful picture. But first let me tell you that the Population Commissioners' report shows the aggravation of the evil. The gentleman who made the report is a military officer, Captain Larcome; a man of science, of integrity, and of honour. He reports the state of the population to be this---that 30 per cent of the town and city population were in abject poverty, and that 70 per cent of the agricultural, were in abject poverty. These are not my words, they are the words of Captain Larcome. Where, then, is the advantage of the union, which has thus increased poverty, bringing pestilence, and involving our poor in misery and filth? Gentlemen, why should we not adopt any plan by which we would escape from these horrors? To be sure, the Poor Law Commissioners go more into details. Mind you, gentlemen, this is evidence made on oath before the Poor Law Commissioners. Allow me to read some of it to you. "One family had but one meal for the space of three days---another subsisted on a quart of meal a-day---another lived on a little boiled cabbages without anything to mix with them." Gentlemen, I will not harass your feelings by reading any more, the book is full of them; and are two millions three hundred thousand of your fellow-countrymen to live in a state of positive destitution and nothing be done for them? Is no effort to be made? Permit me to call your attention to a few passages of a report of a meeting held last Monday week in reference to the sick and indigent of your city. (Mr. O'Connell then read an extract from *Saunders*, detailing the misery which pervaded the city.) Can any language of mine describe the misery which exists more fully? Gentlemen, another hideous feature of Captain Larcome's report is, that the population is diminishing by 70,000 from the period of 1821 to 1831, and from that to 1841, the population has diminished by the number of 70,000, who would have been all reared up if they had anything to support them; and are we to be hunted down, who are the friends of the poor? Are we, who wish to have industry rewarded---are we, I ask it on every principle



of sense and justice, are we to be prosecuted and persecuted for seeking the means of relieving this distress? We have the means of relief in our power; we live in the most fertile country in the world, no country is in possession of such harbours, the earliest historical mention of which is made by Tacitus, admitting that our harbours are the best, and that consequently were more crowded. The country is intersected with noble estuaries. Ships of five hundred tons burden ride into the heart of the country, safe from every wind that blows. No country possesses such advantages for commerce, the machinery of the world might be turned by the water-power of Ireland. Take the map, and dissect it, and you will find that a good harbour is not more remote from any spot in Ireland than thirty miles. Why is not the country prosperous? Did I not read for you of the unheard-of magical prosperity that followed her legislative independence? Did I not read extracts from the writings and speeches of men most adverse to Ireland---of men most anxious to conceal her greatness, as evidence of her increasing prosperity under her parliament? What happened once will surely happen again. Oh, gentlemen, I struggle to rescue the poor from poverty, and to give wages and employment to those now idle---to keep our gentry at home by an absentee tax, after the example of the government last year, if by no other means, and compel them to do duty to their country. I leave the case to you---I deny that there is anything in it to stain me with conspiracy---I reject with contempt the appellation. I have acted] in the open day in the presence of the government---in the presence of the magistrates; nothing was secret, private, or concealed---there was nothing but what was exposed to the universal world. I have struggled for the restoration of the parliament to my native country. Others have succeeded in their endeavours, and some have failed, but succeed or fail, it is a glorious struggle. It is a struggle to make the first land on earth possess that bounty and benefit which God and nature intended.

The court adjourned to the usual hour next day.

---

#### NINETEENTH DAY.

The court sat a few minutes past ten.

The jury and traversers having answered to their names,

Mr. Moore, Q.C., immediately rose, and said that, as counsel for the traversers, he would avail himself of the indulgence of their lordships, which was so kindly granted by them on the preceding evening; but as they did endeavour, to the utmost of their power, to go through the evidence which was already adduced in the case to the court, and which, with few exceptions, was established in their favor by the crown, they meant, therefore, to rest their defence on what had already appeared before their lordships. They had brought a considerable number of witnesses to town; they were in town at present, and able to prove a certain number of facts; but, under the circumstances stated, they came to the conclusion that they would not be warranted to take up the time of the court to establish what had been already considerably proved. They would, therefore, examine but very few.

P. W. CONWAY, ESQ., PROPRIETOR AND EDITOR OF THE "DUBLIN EVENING POST," SWORN AND EXAMINED BY MR. HATCHELL, Q.C.

Where do you reside at present ? At Rathmines road.

Did you live in or near the city of Dublin in the year 1810 ? I did.

Were you at that time in any way connected with the *Freeman's Journal* ? I was editor.

Do you recollect, in the year 1810, having attended a meeting at the Royal Exchange, at a discussion of the question of repeal ? Yes.

I need scarcely ask you whether you know Mr. O'Connell ? I do.

Did you know him personally at that time ? Yes.

Do you recollect having seen him at that meeting on that occasion ? I do.

Was there a chairman at that meeting on that occasion ? Yes.

Do you recollect who was the chairman ? His name was Sir James Riddle, who was high sheriff at that time.

Do you recollect what was the object of the meeting, as announced ? To petition for a repeal of the union.

You have with you a statement of the proceedings at the meeting ? I have.

Were you present at the whole of those proceedings ? I was.

Were you in any way connected with the meeting ? I was secretary.

What did it purport to be a meeting of ? Of the citizens of Dublin.

Are you able, by looking at the file of the *Freeman's Journal*, to assist your memory as to what took place ? I read the proceedings last night ; the report was given on the 19th of September, 1810 ; the meeting took place the day before.

Was the petition agreed to ? It was.

What do you say was the purport of the petition ? It prayed for a repeal of the act of union.

Are you able to state who were the principal persons who took part in the proceedings ? The leading persons at the meeting were Mr. Shaw, the present Sir Robert Shaw, and Colonel Talbot.

Was the petition agreed to ? It was.

Did Mr. O'Connell speak at the meeting ? He did.

Was his speech reported in the *Freeman's Journal* ? Yes.

Did you hear him make that speech ? I did.

Did you see the report in the *Freeman's Journal* shortly after the speech was made ? I did.

Are you able to state whether it was an accurate report ? Two reports appeared in the *Freeman's Journal*. With regard to the topics, I am quite sure they were all correctly given. The second report was more correct ; the periods were better rounded. We had not so good a corps of reporters in Dublin as we have now.

But substantially the topics were the same in both reports ? Yes ; but the second report was decidedly the best. (The witness then read the speech referred to.) I am now connected with the *Dublin Evening Post*. In the year 1800 John M'Gee, senior, was the proprietor of that paper. [The file of the *Dublin Evening Post*, of the 14th of January, 1800, was then handed to witness, and having pointed out in it a speech of Mr. O'Connell's made at a meeting of Roman Catholics, it was read to the

court by Sir Colman O'Loghlen. The speech adverted to the means by which the act of Union was procured, the evils it entailed on the country, the necessity of struggling for its repeal, even though the agitation for emancipation should be abandoned for that purpose. Sir Colman O'Loghlen read from the *Freeman's Journal* of the 10th of May, 1810, the address of the freeholders of the city of Dublin to Mr. Gratian; he also read the answer of that gentleman. The learned counsel read another address from the same body to Sir Robert Shaw, with that gentleman's answer. He also read from the same paper a very numerous signed requisition for the repeal of the Union.]

The Attorney General repeated his objection to this evidence.

Chief Justice—The objection comes very late; other evidence of nearly a like nature was admitted without objection.

Attorney General---We have not sought to exclude the documents already read, because they had reference to what was said by Mr. O'Connell himself at those meetings relating to a repeal of the union; but it appears to me a very different question with regard to the present objection. It is as much that the public time should not be unnecessarily occupied, not caring much whether it is proved or not.

Chief Justice---It is very little value one way or the other.

Mr. Hatchell---Having been opened in statement by Mr. Sheil we thought it right to offer evidence to that effect.

Judge Crampton---It is quite outside the issue to be tried in this case.

Mr. Sergeant Warren to witness---I believe you were proprietor of the *Freeman's Journal* in 1810? I was editor.

That paper has since passed into other hands? It has.

How long is it since you ceased to be connected with it? In 1812 or 1813.

And you are now connected with another paper? I am the proprietor of another paper.

What paper is that? The *Dublin Evening Post*.

The witness then left the table.

James Perry affirmed by the Clerk of the Crown.

Chief Justice---What religious sect or denomination do you belong to, Mr. Perry? To the Society of Friends; I am a Quaker.

To Mr. Whiteside---I am a member of the Society of Friends. I have got the rules of that society in reference to the question of arbitration.

Attorney General---I certainly object to anything being received in evidence connected with the rules of the Society of Friends.

Mr. Whiteside said he had only a few short questions to put with respect to the practice of arbitration; and he had no objection that Mr. Perry should so guard his answers as not to commit himself, or the Society of Friends, to a charge of conspiracy by the counsel for the crown (laughter). The rules of arbitrators which he (Mr. Whiteside) proposed to give in evidence, were the same as those adopted by the traversers; and it was clearly his right to show by that fact, that the traversers had no intention to subvert the jurisdiction of the Queen's courts of justice.

The Attorney General---I entirely object to this evidence being received.

as illegal and unfounded on every legal principle. I think the validity of the objection is so obvious that I need not waste the public time in arguing it. I have a very great disinclination to interrupt counsel in stating a case, when matters may be stated which are not properly admissible in evidence. It is a very inconvenient course to interrupt the statement of counsel, but I shall now take the opinion of the court as to whether this evidence can be received. He proceeded to say that his objection was, that that which was legal in itself, in consequence of the purity of the intention, which he acknowledged in the Society of Friends, could not be admitted to justify an act, the illegality of which arose from the criminal object with which it was done. Bearing in mind this distinction, he submitted that the rules of the Society of Friends had no relation whatever to the issue, and could not be put in evidence to show the intention of the traversers, which was the gravamen of the charge.

Mr. Whiteside submitted that this question was more to the point than the question to, and answer of Sir Robert Peele in the House of Commons. The rules of this body had been framed years ago, and acted upon ever since.

Mr. M'Donough, for the traversers, contended that it was alleged that the parties here entered into certain rules with a certain intention, it was competent to them, being necessary for their defence, to show that similar rules had been entered into by a large and most respectable community of persons, and had been acted on by them for a series of years, without even the imputation of a criminal intention. The evidence of this custom was, he submitted, of importance to the traversers.

Mr. Fitzgibbon was about offering some observations when,

The Chief Justice said that the court thought that hearing the counsel at each side was sufficient.

Mr. Sergeant Warren followed in support of the objection. If the arbitration regulations were legal in themselves, they did not require to be supported by the rules of the Quakers, or any other body, and, therefore, should stand or fall by themselves. On the other hand, if the regulations of the arbitration courts instituted by the traversers were intrinsically criminal, and at variance from the law, it was absurd to contend that they could be legalised or rendered less obnoxious to the law by the circumstance of the arbitration courts founded by the Society of Friends being also illegal; the legality or illegality of the repeal arbitration courts could not in any wise be affected by the legality or illegality of similar courts established by any other class of persons whatsoever, and as a principle was involved he protested against the receiving of the evidence which was offered on the other side, for he thought that a principle was involved, and if this evidence were admitted, it was plain that the court might as well enter into the investigation of any regulations of clubs or societies in England or Ireland. If the present evidence were admitted he could not understand on what plea the court could refuse to hear evidence respecting the regulations of each district class of religionists in the country. In the celebrated case of Horne Tooke an effort was made by the counsel for the traverser to give in evidence certain resolutions which were passed with impunity in England and in Scotland, and which it was contended were similar to the resolutions for which the London Convention

was prosecuted; but the court were on that occasion unanimous in deciding that the resolutions could not be admitted in evidence, and Mr. Erskine acquiesced in this judgment. The cases, he contended, were completely similar in point of law, and the principle involved was identical.

The Chief Justice delivered his judgement. He said: In my opinion the evidence is clearly admissible, and the nature of the charge brought against the traversers is such as to prove that it ought to be received. The indictment is this, or to this effect, that the traversers conspired together in order to bring into disrepute the Queen's courts of justice and the tribunals of justice existing by law in this country, and to substitute other modes of determining differences between the Queen's subjects in derogation of the Queen's courts. Surely it cannot be contended but that the *animus* or intent with which these things are done enters into the essence of the charge. The traversers are charged with having established the arbitration system with the criminal intent of depreciating her Majesty's courts, and bringing them into disrepute, and surely they ought to be permitted to adduce such evidence as they suppose will have the effect of proving that their motives and intentions were not of the nature attributed to them. In a question of intention of this kind, when the question is *quo animo*, these things were done. It is essential that the court and jury should have the fullest and most authentic evidence before them, and it is perfectly fair that the traversers should be permitted to submit to the consideration of the court this proposition, whether there is not a vast number of highly respectable men in the community who, without any criminality having ever been alleged against them, have adopted a plan exactly similar as the traversers aver to, that for the adoption of which they (the traversers) are now put upon their trial. They, no doubt, allege that their intentions in adopting the arbitration system is equally pure as the intention of the Society of Friends. They assert that one of the most respectable classes in the community adopted similar practices without ever having been objected to; and surely these are matters fit to be inquired into and taken into consideration when we find that the traversers are accused of having established the courts with a criminal intent. In this view of the subject I think the evidence is clearly admissible.

Mr. Justice Crampton said he was sorry to be obliged to differ from the Lord Chief Justice, and he believed from the rest of the court also. A legal principle, however, was involved, and he could not acquiesce in the reasoning by which it was endeavoured to make such evidence admissible on the present occasion. It was very true that a question of intention might be involved in the present case, and the object of the traversers in bringing the present witness on the table might be to show that the intention imputed to them by the indictment was erroneously imputed; but I am rather inclined to think that the intentions of a party in doing particular acts is to be decided from his own acts and his own declarations, and not from the actions and declarations of other persons. If the principles adopted by the traversers were just, and fair, and legal, they were just, and fair, and legal without any reference being had to the course adopted by the Quakers, who were no doubt a highly respectable class of men; but if on the other hand these principles were illegal, they could not be legalised by saying that they had been sanctioned and adopted by the

Quakers. The institution of such bodies as arbitration courts might in the abstract be very legal and innocent, and certain it was that nobody had ever accused the Quakers with having made their arrangements as to arbitration with the view of bringing into disrepute the tribunals by law established. These arrangements were, therefore, perfectly legal. But the allegation in the present case was, that another body of persons, to wit, the traversers, had adopted the same course as the Quakers, but with a very different intent indeed; and he could not see how the purity of the traversers' motives could be demonstrated by a reference to the purity of the motives of any other man or men whatsoever. Many acts which in themselves were legal were rendered illegal by the intention, and he thought that the only fair criterions of the intentions of a party accused were the acts and declarations of that party. If this evidence were admitted a precedent would be established for admitting in evidence the regulations of every political club or society in England; nay, they might even cross the Atlantic, and give in evidence the regulations of the societies in America.

Mr. Justice Burton said that, at first he was not aware that there was any difference of opinion amongst his brethren of the bench, otherwise he would have expressed his opinions before now. The subject was one which admitted of some doubt, for it appeared that Judge Crampton dissented; but he (Mr. Justice Burton) fully concurred in the view taken of the point by the Lord Chief Justice. The question which arose here was, whether the mode proposed by the traversers for the purpose of settling differences was done, as charged in the indictment, with the intent to bring the courts of justice throughout the country into contempt. That was the question; and as it was averred that that was the intent, the traversers had a right to show that it was not done with that intent. The traversers had clearly a right to show that in many instances certain bodies of persons, from a sentiment and desire to keep in peace with their neighbours, and having disputes settled without expense, had adopted the same rule of arbitration, and for that purpose the traversers referred to bodies, not merely the Quakers, but to persons concerned in mercantile questions, and questions that might arise in matters of commerce or maritime affairs, and it was contended, in this case, that the intent was precisely the same, and that it was not to bring the courts of justice into contempt. That was a question, not for the court, but for the jury, and surely if that be the question the traversers had a right to show that their object in forming these courts was merely for the purpose of facilitating the termination of disputes of that description. If they choose to have that question submitted to the jury, he, (Mr. Justice Burton) could not see how it could be kept from them.

Mr. Justice Perrin said he concurred in the opinion expressed by the Lord Chief Justice and his brother Burton. The first count of the indictment charged the traversers with intending to bring into disrepute and contempt, with her Majesty's subjects' tribunals established for the administration of justice; that they did conspire, amongst other things, to diminish the confidence of her Majesty's subjects in the administration of the law, with intent to induce them to withdraw the

adjudication of all their differences from the cognizance of courts of law, and to send them to courts of arbitration. That was the charge, and the present was the most material evidence, inasmuch as it went to show that that highly respectable body of her Majesty's subjects for a great succession of years had adopted and published rules having the same tendency. He quite agreed that this evidence did not conclude the question, and it would be very important matter for inquiry what the intention was; but plainly it was evidence. They referred to the Society of Friends and to the Ouzel Galley, to show that the course of proceeding respecting arbitration courts did not necessarily involve the criminal intent. The traversers had, however, not merely to prove those rules but should go further and show cases in which the acts of the arbitrators made by those rules were agreed to and held binding. Would not that be powerful evidence to go to the jury, to show that this course of proceeding could not necessarily involve a criminal intent, and that was the only point here.

The witness then read the following rules of the Society of Friends respecting arbitration:—

“Advised that all friends do keep out of differences; that one friend go not to law with another. And it being considered in this meeting that it is inconvenient and of bad consequences for friends to be forward in going to law, advised—that all friends be careful to avoid as much as may be, and endeavour to labour to live at peace with all men, for we are called to peace, and to be a peaceable people---D. 1677—1687---1807.

“Advised—That no friends shall go from the order of truth; and former advice, to sue on another at law, but that all differences among friends be speedily ended by themselves, or by reference, and not prolonged or delayed.—L. 1690.

“Friends are desired to be zealously and heartily concerned to put a speedy end to differences that may happen between any friends; and that when any disagreement is determined, the persons concerned do quietly submit thereto, without showing discontent, or using any reflections or unseemly expressions either against the arbitrators or person or persons with whom the difference had been; and that all other friends forbear raising unnecessary discourses thereon, whereby to endeavour to bring friends into a liking or disliking of the case either on the one hand or the other; and thereby make parties, either while the matter is before the arbitrators or afterwards; but rather that all should endeavour to promote love and peace.—D. 1720.

“Let friends everywhere be careful that all differences about outward things be speedily composed between themselves or by arbitrators, without troubling monthly or quarterly meetings with such affairs; and it would be well that friends were at all times ready to submit their differences, even with persons not of our religious persuasion, to arbitration rather than contend at law. Here the causes between your brethren, and judge righteous between every man and his brother, and the stranger that is with him—L. 1737-1833.

“Whereas it sometimes happeneth, to the hurt of truth and grief of many friends, that differences do arise, among some professing truth, about outward things, it is therefore, by this meeting thought convenient, and advised, when

any friend or friends shall hear of any such difference betwixt any friends in which they belong, that they forthwith speak to, and tenderly advise, the persons between whom the difference is, to make a speedy end thereof; and if such friend do not comply with their advice, that then they take to them one or two friends, now and again exhort them to end their difference; and if they, or either or any of them, refuse, then to let them know that it is the advice and council of friends that they should each choose an equal number of indifferent, impartial, and judicious friends to hear, and speedily determine the same; and that they do bind themselves to stand to their award and determination, or the award and determination of the major part of them, that shall be made and signed by the arbitrators, or the award and determination made and signed by the umpire, if there be one agreed unto.

"Also this meeting doth advise, that if any friend shall refuse speedily to end the difference, or refer it as before advised, complaint be made of that person unto the monthly meeting to which he doth belong; and if, after admonition, he shall refuse to so refer his case, that the meeting do testify against such person, and *disown* him to be of our society. And if any friends that shall be chosen to hear and determine any such difference as aforesaid, after they have accepted thereof, and the parties differing are become bound to stand to their determination, shall decline and refuse to stand and act as arbitrators, that then the person or persons so refusing be required to give the reasons of their refusal unto the monthly meeting unto which they belong; and if that meeting shall not esteem those reasons sufficient justly to excuse them, then the meeting is to press them to stand to what they have accepted; and if, after such admonition, they shall continue to refuse to stand as arbitrators, that the meeting do testify against them, or either of them, as such as are not subject to the just rules of our society, neither ought to be admitted thereunto, until he or they condemn or retract the same.

"And it is the advice of this meeting, that persons differing about outward things, do as little as may be, trouble ministering friends with being arbitrators in such cases. And that all persons differing be exhorted by the monthly meeting to which they belong when their cases are referred, and judgment and award made, signed and given thereon as aforesaid, to stand to and perform the said award which they have bound themselves to perform; and if any one shall refuse so to do, that then the monthly meeting to which such person may belong, upon notice thereof to them given, shall admonish him thereunto; and, if, after admonition, the present to refuse, then the meeting do testify against him.---1697.

"It is the sense and judgment of this meeting, that if any member of our religious society shall arrest, sue, or implead at law, any other member of our religious society before he hath proceeded in the way hereinbefore recommended, such persons doth therein depart from the principle of truth and the known way thereof, and acts contrary thereunto, and ought to be dealt with by the meeting he belongs to for the same; and if he shall not give satisfaction to the meeting for such his disorderly proceeding by condemning it and himself therein, that then he be disavowed. Or if the party so sued or arrested, taking with him, or, if under confinement, sending, one or two friends to the person who goes to law, shall



complain thereof, the said person shall be required immediately to stay proceedings; and if he does not comply with such requisition, the monthly meeting to which he belongs shall disown him, if the case require it."

Mr. Whiteside—Have you known those rules to have been acted upon by the Society of Friends? They have been, as far as I know, uniformly acted upon.

Have those who disobeyed them been expelled? I have no recollection of any instance of it, but they would be expelled if they disobeyed those rules.

Were you yourself a member of the Ouzel Galley? No, I was not.

But you are aware of the existence of that body? I am. I was a party to an arbitration in the Ouzel Galley, and I saw Mr. Brewster there,

WILLIAM COSGRAVE WAS NEXT EXAMINED BY MR. M'DONOUGH, Q.C.

You are connected with the Ouzel Galley? I am; I am secretary and registrar of it.

You have been some years acting in that capacity? I have, since 1810.

Have you been present at any arbitration during that time? I have, at most of them all. The parties called on me and named arbitrators—then I handed them this printed deed of submission, and they signed it.

Mr. M'Donough—Are those proceedings taken pursuant to the rules of the society? They are.

What number of persons compose the society? About forty when it is full; sometimes there are not so many, but it is filled up as soon as possible. When claims are referred to the society the party claiming generally names the arbitrator.

Tell me the names of the gentlemen who compose the society? Thomas Crosthwaite, Arthur Guinness, James Charles, Thomas Wilson, William W. Colville, John Hone, Thomas Maxwell, George Law, Henry Wilson, S. Boileau, William Fortescue, and—

Mr. M'Donough---That will do.

Chief Justice---That's quite enough for the present.

Mr. M'Donough---Are there certain fees paid by the parliament to the society? Yes, when parties come to have arbitration they are required to lodge four guineas each to pay the expenses of the arbitration, and then the case is settled by the arbitrators.

Then the deed of submission is signed by the parties? It is, that it may be made binding and enforced in the court.

CROSS-EXAMINED BY MR. BENNETT, Q.C.

It is to those who choose to refer their differences to the society that arbitration is granted; it is open to any person, and strangers may refer their differences to it; it is a part of the deed of submission to be made a rule of court; the parties referring to the arbitrators name their own persons.

Judge Crampton—The party names the arbitrator himself? Yes my lord, one names one and the other names another member of the society.

Mr. Bennett—Do you believe the society is incorporated by charter or otherwise? I don't believe it is, as it is a very old society, and I am not aware they are incorporated by act of parliament.

Mr. Charles Vernon sworn, and examined by Mr. Fitzgibbon—I am registrar of newspaper-stamps in the Stamp-Office.

Mr. Fitzgibbon—Produce the *Morning Register* of September 14th, 1841? I have it here; I see a speech of Mr. O'Connell's in it.

Mr. Fitzgibbon—I have no desire, my lords, to have each of the speeches read, but I am willing to have the portions which I referred to in my statement read. However, if the other side wish I have no objection to the whole of speeches being read.

Attorney General—I don't know how this paper can be made evidence at all, and therefore I object to it.

Mr. Fitzgibbon—The publicly expressed opinions of O'Connell, on the subject, is in issue, and I do not see how it can be objected to here. We have it here in one of the papers which the Attorney General alleged was authorised and circulated by the association.

Attorney General—No, no.

Mr. Fitzgibbon—Yes, yes; you said so.

Attorney General—There was no daily paper circulated by the association at all; it was only three-day a week, and weekly papers, the association circulated.

Mr. Fitzgibbon—They have given in evidence here several morning newspapers, without producing the reporter who reported the speeches read out of the same papers by the crown; now, here is one of the newspapers which contains the opinions of Mr. O'Connell on this subject, and which always published the proceedings of the association the next morning, and we want to prove this out of the papers, which are not very many.

Judge Burton—Is the paper one of those which published the proceedings, and which was read here?

Mr. Fitzgibbon—It was not read here my lord, but is a paper which published the opinions of Mr. O'Connell; it is the *Register*, which has since merged into the *Freeman's Journal*, and—

Solicitor General—The only paper we have given in evidence is one which we proved Dr. Gray to be part proprietor of, and it is quite useless to say that they can have recourse to another paper now, and say it is evidence.

Judge Crampton—If Mr. Fitzgibbon proves the speech to have been made by Mr. O'Connell, then he will admit the paper in evidence.

Solicitor General—We think there is a vast difference between this paper and that which we read in evidence.

Mr. Fitzgibbon—It is alleged here that the defendants conspired to raise disaffection, &c. in the minds of her Majesty's subjects, and—

Judge Crampton—Can you show that is a speech of Mr. O'Connell's, and spoken by him as published in that paper? If you do not, you prove nothing, and in that case the paper cannot be admitted in evidence.

The *Freeman* of the 27th September, 1841, was then produced.

Solicitor General—I object to that paper being given in evidence. We do not object to the production of any paper published in 1843; but a speech delivered by Mr. O'Connell in 1841 being called for to be read, the proper evidence is the reporter. They have not produced him, or accounted for his absence. He never before heard such a proposition, as that a newspaper was sufficient evidence of the delivery of a speech.

Mr. Fitzgibbon—The question here is, is what was published by Mr. O'Connell and Dr. Gray criminal. We offer in evidence their acts, and

we now confine ourselves to acts which occurred since the formation of the repeal association.

Mr. Justice Crampton---How do you show they are their acts?

Mr. Fitzgibbon---Dr. Gray is the proprietor. He is said to be one of those who conspired to circulate inflammatory matter. I want to show that he circulated with equal anxiety matter of a legal and peaceable tendency.

Mr. Sheil---My lords, in Horne Tooke's case matter written by him twelve years before was admitted to be read, and the paper now produced was published by Dr. Gray very lately.

Mr. Justice Crampton---That is quite a different case from the *Morning Register*.

Chief Justice---I think it admissible.

Solicitor General---I have sent for an authority which I will have in court in a few minutes, which I think will satisfy the court that it is not admissible.

Mr. M'Donough---At the trial of Mr. Cobbett in July, 1831, he offered in evidence a speech made by him at Salisbury. The Attorney General opposed the admission of it, but it was admitted by Lord Tenderden.

Solicitor General---My objection is that they have not proved it to be a document published by Mr. O'Connell or Dr. Gray. The act of parliament does not allow statutable proof of the publication to be sufficient in favour of the proprietor.

Mr. Justice Burton---The fact of publication by Dr. Gray ought to be proved.

Mr. Fitzgibbon (to the witness)---When did Dr. Gray become the proprietor? On the 8th February, 1841.

Solicitor General---That answer does not remove the abjection, which is, that the statutable proof of proprietorship cannot be given in favour of the proprietor. If you want to prove it in his favour, you must do it in the ordinary way. In the case to which I before alluded an action was brought against the proprietor of a newspaper for matter contained in one of its numbers. He tendered as evidence in his favour other copies of the same paper, and offered to prove the publication under the statute, but was not allowed. He did not object to the proof of the speech of 1810, as it was proved, independent of the newspaper, by a person who was present.

Mr. Brewster---The case alluded to is Watts against Frazer, and it is sent for.

Mr. Whiteside---Cobbett was allowed to give, in proof, one of his *Registers*, without any evidence of proprietorship being given.

Mr. Justice Crampton---Was it objected to?

Mr. Whiteside---No.

Mr. Justice Perrin said the court was waiting for authority.

Mr. Sergeant Warren referred to 7 Adolphus and Ellis; after which he stated there ought to have been either a reporter or some reputable person to prove as was offered in the case of Mr. O'Connell's speech in 1810.

After which discussion, as to the admissibility of the newspaper, it was ultimately handed to Mr. Vernon of the Stamp-Office.

Mr. Fitzgibbon---What date is that paper? It is dated the 5th November 1841.

You perceive in that paper the proceedings of the association? I do.

Go to the passage that is marked.

The witness then read the portion marked, and also a letter from Dr. Gray, published in the same paper.

A resolution of Mr. O'Connell, to the effect that the letter should be inserted on the minutes of the association, was then read.

Mr. Fitzgibbon then said---Have you the declaration of Dr. Gray, proprietor of the *Weekly Freeman*? I have not.

It then having been proposed that the witness should read from the file of the *Weekly Freeman*, produced by the defendants, a speech delivered by Mr. O'Connell.

Mr. Brewster said---This is not the Stamp-Office copy that is produced.

Mr. Fitzgibbon---Can any man in the world entertain a shadow of a doubt that the type is not precisely the same; and, in the name of common sense, I ask, can there be any objection to Mr. Vernon reading from the copy produced?

Judge Crampton---Common sense ought to tell you, Mr. Fitzgibbon, that the one is evidence and the other is not.

The Attorney General not objecting, the witness proceeded to read the speech, in which Mr. O'Connell adverted to the necessity of having the franchise extended, and equal rights and privileges meted out to all parties without distinction. He also referred to what he considered the injustice of having the majority supporting the church of the minority, and expressed his opinion that the ecclesiastical revenues might be appropriated to the education of the people at large. The state of the representation was next noticed, and a comparison made between this country, England, and Wales, for the purpose of showing that Ireland was inadequately represented in the imperial parliament.

Mr. Bourne, at the request of Mr. M'Donough, read from the *Pilot* of the 15th of April, 1840, the plan of the National Association.

Their lordships retired for a short time.

When the Court resumed its sitting,

Mr. Bourne proceeded to read from a report published in the *Pilot* of Wednesday April 12th, 1843, Mr. O'Connell's speech at the Repeal Association. He also read the address of Mr. O'Connell to Mr. Robert Tyler, son of the President of America, conveying the thanks of the association to him for his speech.

Mr. M'Donough---That is all I shall trouble you to read from these two papers at present.

Sir Colman O'Loughlen said there were some documents which were proved by Brown the printer, and we intend to hand them in as read. Brown proved that those documents were printed for, and paid for by the association. The first is entitled a Series of Reports of the Loyal National Repeal Association, First and Second Series.

Chief Justice---Reports on what subject, Sir Colman?

Sir Colman O'Loughlen---Reports on different subjects, published, circulated, and paid for by the Repeal Association.

Sergeant Warren---There is no proof of their circulation by the association.

Mr. Whiteside---Yes, there is. Brown proved they were printed and paid for by the association.

Chief Justice---We have heard no statement about them yet. Let us hear what they are ?

Sir Colman O'Loughlen---The title page of this one is the First Series of the Reports of the Loyal National Repeal Association of Ireland, dedicated to the people of Ireland by Daniel O'Connell, M.P.

Judge Perrin---What is the date of that document ?

The date on the title page is 1840 ; they are printed by Brown, for the association.

The Clerk of the Crown then proceeded to read the first Report of the Repeal Association, which was dedicated to the people of Ireland by Mr. O'Connell.

Attorney General---We assume, for the present, that the whole of that document is read.

Sir Colman O'Loughlen---Of course, we enter all as read, but at present I wish to have the first passage read.

Chief Justice---Let it be entered as read, but let us see what they are about.

The Clerk of the Crown then proceeded to read the following extract from the report alluded to:--

" I dedicate these reports to you ; they were written by one of yourselves for the benefit of you all ; they have met the approbation of the Notional Repeal Association, and therefore, I have no hesitation in recommending them for your perusal.

" Read them attentively ; they will show these things---

" First---That the union was no compact or agreement made between parties entering into arrangement with one another ; it had not any one of the features or ingredients of a contract or a bargain.

" Secondly---That the union was carried by the open employment of military force and violence, and under the rule of martial law, in the total absence of constitutional protection for life, limb, and liberty.

" Thirdly---That the most enormous and profligate bribery and corruption were also used in order to achieve that measure---bribery the most extensive and complicated, the most bare-faced and profligate, that ever disgraced the actors in any political transaction since the beginning of the world.

" Fourthly---That the union was in its terms thoroughly unjust and oppressive to the Irish people.

" Fifthly---That the union law refused to Ireland an adequate representation in the united parliament, and this enormous injustice was perpetrated with reckless carelessness.

" Sixthly---That the union saddled Ireland, and charged all the property of the Irish people, with no less a sum, in the first instance, than Four Hundred and Forty Millions sterling, not one shilling of which was justly, or fairly, or even in point of fact chargeable to Ireland ; and such enormous injustice has since been augmented by an addition of more than Three Hundred Millions sterling, over and above the former sum.

" Seventhly---That but for the union, Ireland would not at the present day, owe a single shilling of national debt, whereas she is at present chargeable, in common with Great Britain, with Eight Hundred Millions.

" Eighthly---That but for the union Ireland would be the least taxed country in Europe, unburdened with debt, and such would be the

condition of Ireland notwithstanding the union, if justice were done her by the imperial parliament in matters of finance."

These propositions are capable of demonstration, and I think that any man who reads the following reports will inevitably perceive their perfect truth.

"I have hitherto for some years struggled to obtain justice for Ireland from the united parliament, but I have struggled in vain.

"Fellow-countrymen, why should we not insist upon the repeal of the union statute? But I need not argue that point; every man must feel that it must be good for Ireland to govern herself, and to have her own income spent within her own bounds, and amongst her own people.

"The conviction that the union must sooner or later be repealed, has become all but universal. Ireland cannot much longer consent to be a province.

"There is in truth but one question, and that is, how is the union to be repealed?

"I do not hesitate to say, that the question appears to me of easy solution. It requires but these few things to make the repeal safe, certain, and free from difficulties.

"First---Let the agitation for repeal be kept perfectly free from sectarian dissention, and from all taint of being a struggle for sectarian ascendancy; all sects and persuasions must see that they have an equal interest in the repeal; no species of political preference can be allowed to any one over the others; the benefit of the repeal is calculated for all, and all should combine to obtain it.

"Secondly---The agitation for the repeal should be peaceable and legal---there should be no force, no violence, no outrage---there should be no threat, no menace. In short, there should be not only no violation of the law, but no tendency to such violation. The acts of the repealers should be marked with moderation as well as with firmness. The language of the repealers should be pacific and conciliatory. In manner as well as in matter, every thing should be done to disarm hostility, and to obtain and justify confidence.

"Thirdly---It is the bounden duty of the repealers to demonstrate, that no man can suffer in goods or in person by the carrying of the repeal. The repealers must constantly show forth the obvious truth, that no man's property will be injured or diminished by the repeal; and that on the contrary, the property of every man must be augmented and rendered more secure. In short, the repeal must be good for every body and injure no one.

"Fourthly---The actual mode of carrying the repeal must be to augment the number of the repeal association, until it comprises four-fifths of the inhabitants of Ireland. The combination must be open and avowed---there must not be any secret society, or secrecy of any kind---there must be no declaration or oaths---no sign taken, or pass-word---there must in short be no violation of the law, nor anything concealed from the lawful and constitutional authorities of the state.

"Fifthly---Petitions to parliament for the repeal must emanate from each province in Ireland---there ought to be at least one million of signatures to each of the four provincial petitions. The universal sentiment

inhabitants of Ireland, will contribute one shilling each, we should have a fund of 50,000*l.*, by that means alone; and when that fund is subscribed, the repeal of the union will not much longer be deferred.

"Let the funds be increased, by the subscription of two millions of the Irish people, to the sum of 100,000*l.*, and the Irish legislature will very shortly after be seated in College-green.

"We conjure the people of Ireland to reflect, that the amount of this subscription will test the zeal of the Irish people for the repeal; and will demonstrate, in a mode devoid of all violence or turbulence, the number of the Irish nation who desires to see their native legislature restored—absenteeism abolished—manufactures cherished—commerce encouraged—equal freedom conceded to all—conscience free and unshackled—and liberty, glorious liberty, the right and inheritance of every native of Ireland whatever be his class, creed, or religious denomination.

"Fellow-countrymen, we conclude by calling on you to recollect, that the salvation of your country is in your own hands.

"As we obtained emancipation we can obtain repeal. He who shrinks from aiding us, deserts the dearest interests of his country, and is unworthy of the name of Irishman.

"DANIEL O'CONNELL,  
"Chairman of the Committee."

"21st April, 1840."

"There is one topic more to illustrate the grievous injustice done to the Catholic people of Ireland, by the appropriation of the ecclesiastical revenues to that small minority which constitutes the Protestant established church in Ireland; it is this—

"The Presbyterian established church in Scotland, being the church of the majority of the Scottish people, is in possession of the ecclesiastical state revenues in Scotland, although those revenues were founded by their Catholic ancestors for purposes of exclusively Catholic piety and religion—purposes, many of them directly opposite to, and contradictory of, the tenets and practices of Presbyterianism.

"The Episcopal Protestant church in England, being the church of the majority of the English people, is in possession of the ecclesiastical state revenues in England, although those revenues were founded by their Catholic ancestors for purposes of exclusively Catholic piety and religion—purposes, many of them directly opposite to, and contradictory of, the tenets and practices of Episcopalian Protestantism.

"Thus, in Scotland and in England, the church of the majority possess ecclesiastical revenues, granted, not by Presbyterians or Protestants of any description, but by Catholics;

"Whereas, in Ireland, the church of the majority is that of the persons who founded the ecclesiastical state revenues—it is the only church able and willing to perform and carry out all the intentions of the donors and founders of those revenues; yet these revenues are taken from the church of the majority of the Irish people, and bestowed by law upon the antagonist church of a small minority of that people,

"It does, therefore, appear manifest, that every circumstance attending the ecclesiastical state revenues increases the nature and extent of the grievance on the score of church temporalities, inflicted upon the Catholic people of Ireland.

"Your committee cannot conclude, without once again warning the people of Ireland,—

"First---That there is no prospect of obtaining the salutary change they require from the united parliament.

"Secondly,—That the injustice they complain of can be redressed only by means of the repeal of the union.

"Thirdly---That such repeal must be sought for, only by legal and constitutional means ; there must not be any outrage, violence, or crime whatsoever. Any outrage, any crime, any illegality, on the part of the repealers, would give strength to the enemies of Ireland, and would weaken, and ultimately destroy, the best energies of her friends.

"Let us then prosecute our agitation for repeal, within the law and constitution, with the sanction of all good men, and, we trust, with the blessing of God Irishmen of every sect and persuasion will have an identity of interest in restoring to their country the blessing of a domestic legislature. But above all, the unjust and insulting inequality which the union inflicts upon Ireland ought no longer to be borne in silence by Irishmen.

"We close, by reminding the association emphatically--

"That Scotland does not support the church of the minority in Scotland, and that the Scottish people would not endure such an appropriation of her ecclesiastical revenues---

"That England does not support the church of the minority in England, and that the English people would not endure such an appropriation of her ecclesiastical revenues.

"But that Ireland, on the contrary, suffer this giant, this monster evil ; and the first duty of Irishmen must be to obtain, by constitutional and legal means, its total abolition.

"DANIEL O'CONNELL,

"April, 23. 1844."

"Chairman of the Committee."

"Such was the state of Ireland at the time it was determined to carry the union.

"The usual means were these:---

"First---The spirit of revolutionary fury was encouraged ! the rebellious disposition was actually fostered, until it was made to explode ! and bitter religious dissensions were promoted amongst all classes of the people.

"For the truth of these allegations there are abundant proofs---they are to be found in the recollections of hundreds and thousands of us who remember these things which we sorrowfully witnessed---they are to be found in all the debates on the union---in the accusations and appeals of its opponents to that measure---in the admissions and boastings of its advocates. But the most powerful evidence of the entire, is the report of the Irish House of Lords, printed in the latter end of the year 1798.

"By that report it appears that the revolutionary spirit and military organisation of the United Irishmen commenced in Ulster ; the focus was in the town of Belfast ; it spread through the greatest number of the Protestants and Presbyterians, especially the latter, of that province. The superior officers had all their meetings in Ulster ; amongst others, the colonels met monthly, and gave in their reports of the strength and state of discipline of their various regiments ; privacy was observed of course, as much as



inhabitants of Ireland, will contribute one shilling each, we should have a fund of 50,000*l.*, by that means alone; and when that fund is subscribed, the repeal of the union will not much longer be deferred.

"Let the funds be increased, by the subscription of two millions of the Irish people, to the sum of 100,000*l.*, and the Irish legislature will very shortly after be seated in College-green.

"We conjure the people of Ireland to reflect, that the amount of this subscription will test the zeal of the Irish people for the repeal; and will demonstrate, in a mode devoid of all violence or turbulence, the number of the Irish nation who desires to see their native legislature restored---absenteeism abolished---manufactures cherished---commerce encouraged---equal freedom conceded to all---conscience free and unshackled---and liberty, glorious liberty, the right and inheritance of every native of Ireland whatever be his class, creed, or religious denomination.

"Fellow-countrymen, we conclude by calling on you to recollect, that the salvation of your country is in your own hands.

"As we obtained emancipation we can obtain repeal. He who shrinks from aiding us, deserts the dearest interests of his country, and is unworthy of the name of Irishman.

"DANIEL O'CONNELL,  
"Chairman of the Committee."

"21st April, 1840."

"There is one topic more to illustrate the grievous injustice done to the Catholic people of Ireland, by the appropriation of the ecclesiastical revenues to that small minority which constitutes the Protestant established church in Ireland; it is this—

"The Presbyterian established church in Scotland, being the church of the majority of the Scottish people, is in possession of the ecclesiastical state revenues in Scotland, although those revenues were founded by their Catholic ancestors for purposes of exclusively Catholic piety and religion---purposes, many of them directly opposite to, and contradictory of, the tenets and practices of Presbyterianism.

"The Episcopalian Protestant church in England, being the church of the majority of the English people, is in possession of the ecclesiastical state revenues in England, although those revenues were founded by their Catholic ancestors for purposes of exclusively Catholic piety and religion---purposes, many of them directly opposite to, and contradictory of, the tenets and practices of Episcopalian Protestantism.

"Thus, in Scotland and in England, the church of the majority possess ecclesiastical revenues, granted, not by Presbyterians or Protestants of any description, but by Catholics;

"Whereas, in Ireland, the church of the majority is that of the persons who founded the ecclesiastical state revenues—it is the only church able and willing to perform and carry out all the intentions of the donors and founders of those revenues; yet these revenues are taken from the church of the majority of the Irish people, and bestowed by law upon the antagonistic church of a small minority of that people,

"It does, therefore, appear manifest, that every circumstance attending the ecclesiastical state revenues increases the nature and extent of the grievance on the score of church temporalities, inflicted upon the Catholic people of Ireland.

"Your committee cannot conclude, without once again warning the people of Ireland,—

"First---That there is no prospect of obtaining the salutary change they require from the united parliament.

"Secondly,—That the injustice they complain of can be redressed only by means of the repeal of the union.

"Thirdly---That such repeal must be sought for, only by legal and constitutional means; there must not be any outrage, violence, or crime whatsoever. Any outrage, any crime, any illegality, on the part of the repealers, would give strength to the enemies of Ireland, and would weaken, and ultimately destroy, the best energies of her friends.

"Let us then prosecute our agitation for repeal, within the law and constitution, with the sanction of all good men, and, we trust, with the blessing of God Irishmen of every sect and persuasion will have an identity of interest in restoring to their country the blessing of a domestic legislature. But above all, the unjust and insulting inequality which the union inflicts upon Ireland ought no longer to be borne in silence by Irishmen.

"We close, by reminding the association emphatically---

"That Scotland does not support the church of the minority in Scotland, and that the Scottish people would not endure such an appropriation of her ecclesiastical revenues---

"That England does not support the church of the minority in England, and that the English people would not endure such an appropriation of her ecclesiastical revenues.

"But that Ireland, on the contrary, suffer this giant, this monster evil; and the first duty of Irishmen must be to obtain, by constitutional and legal means, its total abolition.

"DANIEL O'CONNELL,

"April, 23. 1844."

"Chairman of the Committee."

"Such was the state of Ireland at the time it was determined to carry the union.

"The usual means were these:---

"First---The spirit of revolutionary fury was encouraged! the rebellious disposition was actually fostered, until it was made to explode! and bitter religious dissensions were promoted amongst all classes of the people.

"For the truth of these allegations there are abundant proofs---they are to be found in the recollections of hundreds and thousands of us who remember these things which we sorrowfully witnessed---they are to be found in all the debates on the union---in the accusations and appeals of the opponents to that measure---in the admissions and boastings of its advocates. But the most powerful evidence of the entire, is the report of the Irish House of Lords, printed in the latter end of the year 1798.

"By that report it appears that the revolutionary spirit and military organisation of the United Irishmen commenced in Ulster; the focus was in the town of Belfast; it spread through the greatest number of the Protestants and Presbyterians, especially the latter, of that province. The superior officers had all their meetings in Ulster; amongst others, the colonels met monthly, and gave in their reports of the strength and state of discipline of their various regiments; privacy was observed of course, as much as

possible; but one of the colonels was a spy in the pay of the treasury; and he regularly, after each meeting of colonels, made a report to the government of all their proceedings.

"The Irish government could, therefore, at once have seized the entire staff of the rebellion; they could stay its progress, and crush its hopes, by arresting at once all its leaders; but they allowed it to run on and augment for about eleven months, without interruption.

"All this appears from the report of the House of Lords, above alluded to.

"Why did the government allow the organisation to go on, and the colonels to continue their meetings for ten or eleven months without interruption? The answer is obvious; the government had an ulterior object in view, to attain which they thought any sacrifice of blood cheap; that object was the union.

"It is true they speculated too dangerously---the experiment will never be made again---they imagined that between the armed force which they then commanded, and the powerful auxiliary of the bigotry of the northern rebels, they could easily suppress the rebellion, when it became just ripe enough to frighten the country into the union.

"But they almost fatally miscalculated. Wexford, without any previous organisation, was driven into rebellion by the ferocity of an unhappy nobleman, Lord Kingsborough, and of his regiment of militia; and if any one other county had been roused to an exertion similar to that made by the men of Wexford, the rebellion would have been a revolution, and the intended union would have been exchanged for an actual and perpetual separation.

"Even the unforeseen excess to which the rebellion extended, was converted by the unionists into further means for carrying the union. The alarm and dismay became greater---the confusion more complete---the rancour of party spirit more virulent---Irishmen were rendered more incompetent to protect themselves---and thus their inherent rights were spoliated with malignant satisfaction and perfect facility.

"On this subject also, the powerful eloquence of Plunket was heard to denounce the crime, and to call for vengeance on the criminals. He accused the government, we use his own words---"of fomenting the embers of a lingering rebellion---of hallooing the Protestant against the Catholic and the Catholic against the Protestant---of artfully keeping alive domestic dissensions, for the purposes of subjugation"---in other words, the carrying the union.

"Secondly---The deprivation of all legal protection to liberty or life the familiar use of torture; the trials by courts-martial; the forceable suppression of public meetings; the total stifling of public opinion; and the use of armed violence.

"All the time the union was under discussion, the habeas corpus act was suspended; no man could call one hour's liberty his own.

"All the time the union was under discussion courts-martial had unlimited power over life and limb; bound by no definite form or charge; nor by any rule of evidence, the courts-martial threatened with death those who should dare to resist the spoliation of their birth-rights.

"There was no redress for the most cruel and tyrannical imprisonment

The persons of the King's Irish subjects were at the caprice of the King's ministers. The lives of the King's Irish subjects were at the sport and whim of the boys, young and old, of the motely corps of English Militia, Welsh Mountaineers, Scotch Fencibles, and Irish Yeomanry. At such a moment as that, when the gaols were crammed with unaccused victims, and the scaffolds were reeking with the blood of untried wretches; at such a moment as that it was that, the British minister committed this act of spoliation and robbery, which enriched England but little, and made Ireland poor indeed.

"Besides the suspension of the habeas corpus act, and the consequent insecurity to personal liberty; besides the existence of courts-martial, and the consequent insecurity of human life, besides all these, actual force was used, meetings of counties, duly convened to deliberate on the measure, were dispersed by military force. It was not at Maryborough or Clonmel alone that the military were called out, horse, foot, and artillery, to scatter; and they did scatter; meetings convened by the legal authorities, to expostulate, to petition against the union. Force was a peculiar instrument to suppress all constitutional opposition.

"Why should we dwell longer on this part of the subject, when, in a single paragraph we have, in eloquent language, a masterly description which easily supercedes any attempt of ours? Here are the words of Plunket: 'I will be bold to say, that licentious and impious France, in all the unrestrained excesses that anarchy and Atheism have given birth to, has not committed a more insidious act against her enemy, than is now attempted by the professed champion of civilised Europe against Ireland; a friend and ally, in the hour of her calamity and distress. At a moment when our country is filled with British troops, whilst the habeas corpus act is suspended, whilst trials by courts-martial are carrying on in many parts of the kingdom, while the people are made to believe that they have no right to meet and to deliberate, and whilst the people are palsied by their fears, at the moment when we are distracted by internal dissensions, dissensions kept alive as the pretext of our present subjugation, and the instrument of our future thralldom. Such is the time in which the union is proposed.'

"Thirdly---The union was accomplished by the most open, base, and profligate corruption that ever yet stained the annals of any country.

"The leading feature, after all, in the union was, the daring profligacy of the corruption by which it was carried. It was reduced into a regular system. It was avowed in the house. It was acted on every where. The minister set about purchasing votes; he opened office with full hands; the peerage was part of his stock in trade, and he made some two scores of peers in exchange for union votes. The episcopal bench was brought into market, and ten or twelve bishoprics were trucked for union votes. The bench of justice became a commodity, and one Chief Justice, and eight *puisne* judges and barons, ascended the bench, as the price of votes for the union. It would extend beyond our calculation to make out a list of the generals, and admirals, and colonels, and navy captains, and other naval and military promotions, which rewarded personal or kindred votes for the union.

"The revenue departments have too long been the notorious merchandize

of corruption. It is not surprising, therefore that the Board of Excise and Customs, either conjointly or separately, and the multifarious other fiscal offices, especially the legal offices, were filled to suffocation, as the rewards of union votes.

"The price of a single vote was familiarly known, it was 8,000*l.* in money, or a civil or military appointment to the value of 2,000*l.* per annum. They were simpletons who only took one of the three, the dexterous always managed to get at least two out of the three; and it would not be difficult perhaps, to mention the names of twelve, or even a score of members, who contrived to obtain the entire three---the 8,000*l.*, the civil appointment, and the military appointment.

"Lord Castlereagh actually declared in the House of Commons, that he would carry the union, though it might cost more than half a million in mere bribes. His words, as reported by Grattan, were---'Half a million, or more, were expended some years ago to break an opposition; the same, or a greater sum, may be necessary now.' Such was the open, the unblushing, the impudent effrontery of Lord Castlereagh. Grattan added,---'he,' Lord Castlereagh, 'had said so in the most extensive sense of bribery and corruption. The threat was proceeded on, the peerage sold, the caittiffs of corruption were every where---in the lobby, in the street, on the steps, and at the doors of every parliamentary leader, offering title to some, offices to others, corruption to all.'

"The present Lord Chief Justice Bushe was more vehement in his exposure of the atrocious means used to carry the union. He stated, 'That the basest corruption and artifice were exerted to promote it; that all the worst passions of the human heart were entered into the service---and all the most depraved ingenuity of the human intellect was tortured to devise new contrivances of fraud.'

"Such were the means by which the union was carried. It was not a compact; it was not a bargain; it was the government, in the words of Lord Plunket, availing itself of the calamity and distress of Ireland, in a manner worse than impious and licentious France would have done, to her bitterest enemy.

"And yet, with all these resources of intimidation and corruption, the union was defeated in the first session in which it was brought forward; and it was proved then to be impossible to bribe a sufficient number of the members of the Irish House of Commons to vote away the independence of their country.

"Another plan was therefore adopted, after the defeat of the measure in 1799---some thirty or forty of the Irish members, who could not be induced to sell their votes, made a species of compromise by selling their seats to the government, and thus retired from parliament. The government thereupon filled those seats with Scotch and English officers, having no connexion whatever with Ireland beyond their casual residence there with their regiments, and who having filled the seats so vacated, formed the actual majority by whom the union was carried.

"Besides all this, it is perfectly clear that the Irish parliament had no right whatsoever to vote away their country's independence.

"The King could not attach the allegiance of the Irish people to any foreign crown; to France, for example, or even to Hanover; and the Irish

parliament had still less right to swamp the Irish constituencies, and Irish representatives by Scotch or English constituencies or representatives.

"These opinions are not merely theoretical; and they rest upon much higher authority than that of our committee. They are the language, and the distinctly pronounced judgment of the most eminent men of the legal profession in Ireland. Saurin, who was afterwards for more than twenty years Attorney General in Ireland, declared that the House of Commons had no authority to pass the act of union. His words were—'You may make the union binding as a law, but you cannot make it obligatory on conscience. It will be obeyed as long as England is strong: but resistance to it will be in the abstract a duty: and the exhibition of that resistance will be a mere question of prudence.'

"Such was the language of Saurin, which he never denied, retracted, or qualified; on the contrary, he unequivocally pronounced the struggle to get rid of the union to be in the abstract 'a duty.'

"Let it be remembered, that the man who preached this doctrine was afterwards offered and refused the office of Lord Chief Justice of Ireland; and was actually the Attorney General in Ireland for about twenty years; enjoying more of the confidence of the British government than any other law officer ever did or ever will. He, it was, that declared the union not to be obligatory on conscience; but, on the contrary, the resistance to it to be a duty.

"Another more eminent lawyer still—one who has been since appointed to the office of Master of the Rolls in England—then elevated to the peerage—then made Chief Justice of the Common Pleas in Ireland—then made (and he now is) Lord High Chancellor of Ireland—Lord Plunkett. This greatest of constitutional lawyers has left on imperishable record his sentiments as to the legal effect of the act of union. Here is the solemn legal judgment of Lord Plunkett on the competency of parliament to pass the act of union.

"I, in the most express terms, deny the competency of parliament to do this act. I warn you, do not dare to lay your hands upon the constitution. I tell you, if, circumstanced as you are, you pass this act, it will be a nullity, and that no man in Ireland will be bound to obey it. I make this assertion deliberately. I repeat it, and call on any man who hears me to take down my words. You have not been elected for this purpose; you have been appointed to act under the constitution, not to destroy it. You are appointed to exercise the functions of legislators, and not to transfer them; and if you do so, your act is a dissolution of the government; you resolve society into its original elements, and no man in the land is bound to obey you.'

"After some pointed illustrations of the practical truth of this constitutional doctrine, this eminent lawyer went on to address the Irish House of Commons thus:—'Yourselves you may extinguish, but parliament you cannot extinguish! It is enthroned in the hearts of the people; it is enshrined in the sanctuary of the constitution; it is immortal as the island it protects. As well might the frantic maniac hope, that the act which destroys his miserable body, should extinguish his eternal soul. Again, I therefore warn you, do not dare to lay your hands on the constitution; it is above your power.'

"Such were the means by which the union was carried, and such was the inherent radical defect, in point of law and of conscience, in that measure. It is right to see how this inherent vice in the creation of the union—how the bad spirit in which it was proposed and carried, was exhibited by another eminent lawyer. We shall call on the public to listen to the opinion of Lord Chief Justice Bushe upon that subject—this is his opinion:—

"I see nothing in it (the union) but one question—— Will you give up the country? I forget for a moment the unprincipled means by which the union has been promoted: and I look on it simply as England reclaiming in a moment of our weakness that dominion which we extorted from her in a moment of our virtue; a dominion which she uniformly abused, which invariably oppressed and impoverished us, and from the abolition of which we date all our prosperity."

He adds:—

"The union is a measure which goes to degrade the country, by saying that it is unworthy to govern itself. It is the revival of the odious and absurd title of conquest. It is a renewal of the abominable distinction between mother country and colony, which lost America.

"It is the denial of the rights of nature to a great nation, from an intolerance of its prosperity."

"With this quotation we close our report; hoping that the language of these eminent lawyers will sink deep into the recollection of the country.

"The people of Ireland can, within the compass of this report, behold the means by which the union was carried: they can see the inherent defects in that measure; and if they have the virtue their forefathers possessed, they will, by obeying the dictates of duty, restore to a great nation the rights of nature, of which she has been deprived from the basest of all motives, an intolerance of her prosperity.

"DANIEL O'CONNELL"

"April 30th, 1840."

"Chairman of the Committee."

He next read the address of the National Repeal Association to the people of Ireland, which has already appeared. The Report of the Committee of the National Association, on the number of representatives for Ireland was then entered as read. Also the report of the same committee, dated April 27th, 1840.

The next document handed in was the Report of the National Association on the means by which the union was carried. This was read from page 38 to the end.

The Clerk of the Crown still continued to read extracts from the various reports adopted by the Repeal Association.

WILLIAM MORGAN, A COACHMAKER, RESIDING AT TULLAMOORE, WAS THEN EXAMINED BY MR. HATCHELL.

Do you remember the meeting held in Tullamoore on the 16th July last? I do.

Do you know where Mr. Dean's house is situated? I do.

What is the name of the person residing in the house at the opposite side of the street? His name is Hand,

Do you recollect seeing an arch across the street? I do. I saw it at about ten o'clock on Sunday morning.

Did you observe what was written on it? I did.

What was it? "Ireland—her parliament, or the world in a blaze."

Did you see the arch taken down? I did.

Did you assist in taking it down? I did.

Do you know Mr. Steele? I do.

Did you see him whilst the arch was being taken down? No.

Did you see him somewhat about that time? Before.

At whose request did you take down the arch? At Mr. Steele's—Mr. O'Connell having expressed to him his disapprobation of its erection. I should think it was taken down about a quarter past eleven, after second prayers. The people were assembled about two o'clock.

CROSS-EXAMINED BY MR. BREWSTER.

I attended a meeting there; I don't know that there was a committee for getting up the meeting; I heard there was a committee, but I did not subscribe to it; Mr. Deane was the painter of the arch, and he assisted me to take it down; I believe he is here; I cannot tell who put up this arch; it was suspended from his house; I live within one hundred perches of the place, but not in the same street; nobody came to town with me who assisted me in taking down the arch except Deane; the street in which the arch was suspended was one of the entrances to the chapel; there was a large attendance at the chapel that day; I did not see any of the processions coming into the town.

Sir Colman O'Loughlen then put in the resolutions and petitions agreed to at the Mullingar, Longford, and Drogheda meetings, and they were entered as read.

Sir Colman O'Loughlen—My lord, in the *Pilot* of August the 6th, you will find that a resolution was adopted, that a petition be presented to parliament, praying for a repeal of the union. In the same journal, of the 6th of September, you will also find that an invitation was given to Mr. O'Connell to attend the Loughrea meeting. These papers have been proved by the crown, and I wish you, therefore, my lords, to enter them as read.

Charles Vernon having again ascended the table, read from the *Freeman's Journal* of the 27th October, 1841, a report of a meeting of the Association, in which Mr. O'Connell moved a vote of thanks to the people of Quebec, and that their letter be inserted on the minutes. Mr. O'Connell, on that occasion, reprobated the conduct of the Canadians in resorting to violence, and advised the people always to maintain the laws inviolate. Mr. Vernon then read from the *Freeman's Journal* of the 5th April, 1842, another report of the Association, in which he repudiated the Chartist principles, and expressed his abhorrence of their conduct.

The witness next read from the *Freeman's Journal* of the 6th January, 1842, the speech of the Lord Mayor at the Repeal Association, in reference to admitting the people of Canada as members, because they were British subjects, and also an extract from the same paper of the 22d of January, 1842, in which a speech of Mr. O'Connell's was also published.

The witness, in compliance with the request of Mr. Fitzgibbon, next



proceeded to read the reports of Mr. O'Connell's speeches at the Repeal Association, on the 25th of March and the 11th of May, as they appeared in the *Freeman's Journal* of the following days respectively. Witness also read a report of Mr. O'Connell's speech at an aggregate meeting for repeal and Irish manufacture, published in the *Freeman's Journal*, of the 17th of May, 1842; also a report of Mr. O'Connell's speech delivered at the Repeal Association, published in the *Freeman's Journal* of the 23d of May, 1842. [The witness then read extracts from Mr. O'Connell's speech at the Association, published in the *Freeman's Journal* of the 24th of May, 1842.] He (Mr. O'C) said that at the time of the Union there resided 300 commoners in Ireland, who spent their fortunes in Dublin and the country. He (Mr. O'C.) was obliged to reside in London, and spend his money there, which ought to be spent in Ireland. He instanced the case where the people were employed at the time Ireland had her own parliament, and the misery brought on the country by the Union statute. England at that time owed four hundred and forty-six millions of money---Ireland owed but twenty millions, and yet she was saddled with half the debt of England. If the people would be employed, the gaols would be empty---no crimes would be committed, for it was poverty that caused the commission of crime.

Mr. Vernon then read from the *Freeman* of the 16th of August, 1842, a speech made by Mr. O'Connell at the Association, in which he stated that one of the great motives he had for the repeal, was that it would cause the spending of four millions of absentee money in this country, together with two millions of surplus which was now spent out of this country. He read the entire speech.

As soon as this document was read, the *Freeman's Journal* of the 14th September, 1841, was produced, and the speech of Mr. O'Connell denouncing the Chartists was read from it.

Mr. Fitzgibbon said that their lordships might recollect that he and several others of the counsel for the traversers mentioned their intention to produce Mr. Power---that he was subpoenaed for the purpose, and was also served with a crown summons to attend. The statement made on that matter was perfectly accurate. Mr. Power was now on the road, but being in a bad state of health, it was with great difficulty that his physician was induced to consent to his proceeding to Dublin otherwise than by easy stages. He is expected to-morrow by one o'clock. On his evidence they were prepared to prove certain facts, if the crown would allow Mr. Power to be examined as soon as he could attend, or otherwise the case might stand over until two o'clock to-morrow.

Chief Justice---Are you done with everything else?

Mr. Fitzgibbon did not wish to take up the time of the court reading things which he believed the jury were not prepared to consider. He would therefore state to the court that there was no other fact which they thought it necessary to prove, nor was there anything else to which they intended to advert. The crown might either throw out of the evidence any observations made by them on that letter, or let the case be adjourned until Mr. Power would arrive.

Mr. Hatchell---We want to prove that Mr. Power wrote that letter, that it was his name which was signed to it.

Chief Justice---Let the service of the summons be proved.

Mr. Fitzgibbon was prepared to do a certain thing, but what it was it could not be expected he would then state, but he would be able to show that his evidence would wholly exculpate the traversers from anything in that letter. He would then take the opportunity of referring to certain newspapers, which might be entered as read.

The papers were of the following dates :---*Freeman's Journal*, 21st Dec., 1841; do. 29th December, 1841; do. 26th January, 1843; the last showing Mr. O'Connell's objection to the Chartists.

PATRICK GAYNOR EXAMINED BY MR. MONAHAN.

Served the copy of the subpoena on Saturday evening; the Rev. Mr. Power was very unwell at the time; he said he was entirely in the hands of his physician, and that he would go to town the next day if he could obtain permission to do so. Mr. Power wrote to his physician, and to Mr. Burn, a magistrate, in the county of Waterford; they all three met on Saturday, and, after some conversation, it was decided that Mr. Power should go to town by slow stages; it was agreed that one of Mr. Burn's family should go with him, and that they should both be in Dublin on Wednesday evening; I saw Mr. Power first at his own house; he mentioned that he had been previously sent for, and said that the reason why he had not come before was, that he was very ill; he was afraid that his life would be endangered by his coming.

CROSS-EXAMINED BY MR. FREEMAN.

Saw Mr. Power in his parlour; the Rev. Mr. Casey, his curate, was with him; they had been dining in the parlour.

Was there anything on the table? Indeed I did not take notice of anything particular; I was asked to partake of some dinner.

Did he ask you to take anything else after your long journey? Yes---some wine.

Did he pour the wine out from the bottle that was on the table? He did.

Which bottle, I suppose, was on the table for him and his curate? No, he desired his girl to bring it down (laughter.)

Did the three of you join in taking the wine? The Rev. Mr. Casey did not.

Did you and Mr. Power drink to each other's health? We tasted. (laughter.)

He filled a glass of wine for himself and one for you? Yes.

Did he give you more than one glass? No.

Was any punch offered to you? Nothing but one glass of wine.

You left after taking the wine? I did.

The witness was then desired to withdraw, and, after a few observations from Mr. Hatchell and the Solicitor General,

The Chief Justice said he should not require the Solicitor General to begin his statement until he was satisfied he would not have any undue interruption.

Mr. Moore then said they should not press for reserving the examination of Mr. Power, and announced that the traversers had closed their case.

The court then adjourned to ten o'clock next morning.

## T W E N T I E T H   D A Y .

The court sat this morning at ten o'clock. The jurors and traversers having answered to their names,

The Solicitor General rose to reply. It was at length his duty to address the jury in this case upon the evidence they had heard, and never, perhaps, did one more arduous devolve upon a law officer of the crown. The momentous importance of this trial—the vast variety of topics introduced—the talent, eloquence, and ingenuity of the host of counsel, against whom he was now called on to appear single-handed—the consequences of the verdict upon the law of the land, as affecting the peace, the happiness, and the prosperity of this country—all these were calculated to appal a person of greater powers, both of mind and body, than he possessed. It was, therefore, with no small share of anxiety and apprehension he approached the execution of this formidable task. Great, however, as was his sense of responsibility, he was greatly relieved by the recollection of the sacred character of the pledges the jury had given—the oath they taken to decide upon the case impartially and justly. They had sworn by the most solemn of all obligations to give their verdict unaffected by any political or sectarian feelings—by fear, favour or affection, by any consideration beyond the truth and justice of the case. That they felt the full responsibility imposed upon them, the close attention they had paid during the progress of the trial abundantly testified; and it was the conviction of this, that emboldened him to express a hope that they would continue an extension of that patience to him which had been so severely taxed throughout the whole of the proceedings. He despaired of enlightening the case by wit, fancy, or eloquence; he was not gifted with those powers; and even if he were he would not be justified in influencing their passions or prejudices; he would call upon them, as honest men, to exercise their judgments, and, if they could not elicit from the evidence sufficient to justify them in returning a verdict of guilty, he would not seek it. But he thought he could present the case in such a light as would justify them, in the eyes of every honest man, in returning the verdict he anticipated. Theirs was a plain just cause—it required nothing but the exercise of a sound judgment. There had been so much misrepresentation of the law and facts of the case—so many extraneous topics introduced by those who had addressed them, on behalf of the traversers, that it was necessary to divest the case of the topics which did not belong to it, and which had been introduced to divert their attention from the real question for their consideration in the eight addresses which had been made for the traversers. Many of those gentlemen who had addressed them had introduced matter not only different but inconsistent; but in one respect they marvellously concurred—the absence of the least reference to the merits of the case. They had not, in fact, made one observation upon the real merits of the question. Before he went into the details of the case, it was necessary that he should advert, as briefly as possible, to the topics which had been introduced into the case by the counsel for the defendants; and he thought the jury would see that they had not the slightest bearing upon the questions at issue, and that they must have been introduced for no other reason than from the necessity which lay upon the defendants to

evade touching upon the issue which the jury had been sworn to investigate—namely, the existence or non-existence of the conspiracy with which they had been charged. His learned friend Mr. Sheil had not often favoured them lately by appearing in the courts to delight them with his splendid talents; his visits had been “like angels’ visits, few and far between.” This was conceived to be an occasion where it was considered necessary to resort to something extraordinary; and accordingly Mr. Sheil had, on the part of Mr. John O’Connell, addressed the jury—he must pardon him for saying it—not upon the case at all, but upon various other subjects, some of which it would be necessary that he (the Solicitor General) should advert to hereafter. Mr. Shiel had appeared as counsel for Mr. John O’Connell, and he certainly delighted them by one of the most splendid exhibitions of eloquence he had ever heard; but he must say of it, “*materiam superabat opus*”—the execution was beautiful, brilliant, and elaborate; but the matter was meagre indeed. In short, he threw the case of his client overboard, as indeed his client appeared to consider, for the jury would recollect he disclaimed in a great measure the line of defence which his counsel had taken. Was he (the Solicitor General) not justified in saying he threw the case of his client overboard, for, from beginning to end of his address, was there a single observation made by him in denial or in explanation of any fact proved on the part of the crown as involving the guilt of his client? Did they recollect Mr. Sheil’s promise—“I will show you that my client is innocent of this charge.” Now, he would ask them could they point out a single fact, relied upon by Mr. Sheil, tending to show the innocence of his client in this case. There were topics of general interest brought forward by him, yet not at all bearing upon the case. The first of these was a sort of attack upon the crown for the length of time which had been suffered to elapse before the prosecution was instituted against Mr. O’Connell and his fellow-traversers. That struck him (the Solicitor General) as a most singular species of defence, because in the first place, it involved, as they would at once see, something like an admission of the guilt of those parties—for what did it come to? “You suffered us to go on, you seduced us into crime,” said they; and his learned friend (the Attorney General) was actually called, by Mr. Shiel, “the artful dodger of the state,” like the “delator” of the Roman empire, all leading to this, that the crown had actually seduced those people into the commission of crime, and that after they had been suffered to go on day after day, and week after week, the crown turned round upon them and said they had violated the law. Why, was it not monstrous to set up an allegation of that sort upon the question of the guilt or innocence of those people? If they had not violated the law, they must be acquitted—if they did violate the law, what sort of defence was it to say that the government had forbore to prosecute them for a conspiracy? What sort of a defence would it be considered in another case? He was merely making those observations at present, as shewing the weakness of the defence, he meant to account for the delay hereafter, and he should demonstrate to the jury, and he thought to the public, that there had been not only no seducing into crime, but that on the contrary, every warning had been held out to those people, and that the prosecution which had been ulti-

mately resolved upon, was one which they had every reason to expect, and which could not have been brought forward, with effect, earlier than it was. Before he should proceed further to the topics which Mr. Shiel had introduced, he thought it right to disabuse the minds of the jury of an impression which had been sedulously attempted to be made on them as to what it was the crown were prosecuting for. They had heard over and over again that this was an indictment against the people of Ireland, and an indictment for the purpose of putting down free discussion, extinguishing the rights of the people, and introducing a sort of arbitrary control over the constitutional exercise of their legal rights. All that sort of attack had been made, *usque ad nauseam*. With respect to this being a prosecution against the people of Ireland, allow him to say it was a prosecution not against the people of Ireland, not for exercising any legal right—it was not a prosecution against any of those unfortunate people who had attended those meetings at the instance of the traversers. It would be more just—it would be more fair, and more true to say, that this was a prosecution for the benefit of the people. It was his thorough belief and conviction that a verdict which could have the effect of stopping the proceedings to which those unfortunate people had become victims, would be the most favourable result which could happen for them. It would not abridge their rights, but lead to their amelioration in every respect. But it was then said the crown were prosecuting for the purpose of putting an end to free discussion. Now, his reply to that was—they were not prosecuting any person, for holding any particular political or religious opinions; he avowed at once that every one of the traversers had the fullest right to express, in a constitutional and legal manner, his opinions upon any public subject whatever—nay more, to use his best exertions, if he thinks right, to propagate them, and to have them entertained, as far as possible, by all persons in the community, and to use all legitimate and proper means to accomplish that object; but he denied the right of any person to attempt to bring about such an end by the means which were charged in the indictment. Nor was this a prosecution against the liberty of the press. It was true there were involved in this indictment three gentlemen who are proprietors of newspapers, but they were not indicted or included in the indictment as proprietors of newspapers, but as conspirators: and he denied the imputation that this was a prosecution of the press. If it was, why were not the editors of other liberal papers included in this prosecution? The editors of other liberal newspapers were not included in the prosecution, because they were not agents or instruments for carrying out, the designs to which he should hereafter have occasion more particularly to call their attention. Their verdict in this case could not interfere with the liberty of the press, or the exercise of any constitutional right. Nor, again, were the crown prosecuting for any public breach of the peace, though the jury might have supposed so, from a great deal of the remarks made on the traversers' side. No; their charge was this—that Mr. O'Connell, Dr. Gray, Mr. Duffy, Mr. Barrett, and the other traversers, had entered into an illegal confederacy, for the purpose of effecting changes in the constitution of this country by other than constitutional means. The learned gentleman then went on to lay down the distinction between the legal and the popular definition of the word conspiracy, the latter of which the

counsel for the traversers had so much endeavoured to impress upon the jury. In point of law, a conspiracy meant nothing more nor less than this; where two or more persons concur in the prosecution of any illegal object, if those two or more persons concur in the execution of a common design, which design was contrary to the law of this land, those persons were guilty of what the law called a conspiracy; no matter whether it be open or whether it be secret. The crown said that the traversers had concurred in a common unlawful design, namely, an attempt to procure, by means of intimidation, the repeal of the act of union, which, according to the law of this country, could not be legally repealed, except by an act of parliament, the result of the free will of the legislature. The gentlemen of the jury would not take the law from him, nor from the counsel who were engaged at the other side, they would take the law of the case from the high authority of the judges of that court who would direct them on any point on which they might require direction. He was, however, most anxious to disabuse their minds of what was sought to be impressed on them with regard to conspiracy. A conspiracy did not necessarily mean a secret proceeding. A conspiracy might be one to do an illegal act; a conspiracy to murder or rob a man, for instance, or to do any other illegal act, which, if in point of fact, it had been done, would constitute a crime, and be punished as such. An agreement to bring about some legal object by illegal means was also a conspiracy; and it was curious to observe the anxiety in the minds of the counsel on the other side to dispute that proposition. It was asserted that the object was a legal one, and that it could be accomplished by legal means; but it was no matter what object may be in view, when the party charged seek to bring about that object by illegal means, such party would be guilty of a conspiracy. Suppose, for instance, that he was entitled to an estate, and that he wanted to get into possession of it, it would be fair for him to do so by legal and constitutional means; but if he conspired with two or three other persons to turn the party in possession out of it by force, or if he employed witnesses to swear what was false, in order to obtain possession of the estate, then he would be guilty of a conspiracy, no matter how legal in itself the object was which he intended to accomplish. He would call their particular attention to the nature of the charges in the indictment, in order that they might the more fully understand them. One allegation in the indictment was, that the traversers, with others, entered into a common object for the purpose of exciting discontent and disaffection in the minds of her Majesty's subjects. the next charge against them was, for having combined, confederated, &c. for the purpose of creating animosity and jealousy, ill-will, &c. between the different classes of her Majesty's subjects, and more particularly between the subjects of Ireland and those of her Majesty residing in England. The next charge against the traversers was for combining to excite in the army a spirit of discontent and disaffection; and these were the illegal means of bringing about a repeal of the union. He was free to admit that the object of a repeal of the union was not in itself illegal, he at once acceded that to the other side; but that was not the question they were then trying, nor could they enter on it then. The crown next says, that the traversers combined to cause large and multitudinous assemblages of persons to congregate in different parts of the country, in order, by the demonstration of

physical force, and the intimidation to be thereby excited, to procure changes in the constitution as by law established. He said the exhibition of physical force, not the use of it. They would see the peculiar nature of the case, and so far as the evidence went as to the peaceable conduct pursued at the meetings, it was a proof of the combination, as it was only by peaceable and tranquil means that the combination and conspiracy could be successful. It was indispensable to the success of the scheme, and it was ridiculous to say it was not. It was contended that the meetings were peaceable, and that no breach of the peace, or tendency to such, had taken place; but that fact was the greatest proof that could be adduced of the conspiracy, part of which was that there should be none. The crown is charged here with prosecuting the people of Ireland, but that is not the fact; they were not prosecuting the people who assembled at Tara, and elsewhere, but they were prosecuting the traversers for having procured those meetings; for having brought the people together to use them as instruments of their skill, and to intimidate by the exhibition of physical force. The traversers are also charged with having combined to bring into disrepute the legal tribunals as by law established. It was not the establishment of an arbitrator here or there, in order to settle the differences that might exist between parties, but the regular appointment of judges, and courts of justice in different parts of the country; an usurpation of the prerogative of the crown, by putting men in authority, with a diploma only from the Loyal National Repeal Association of Ireland. From the entire nature of the case the jury would see that the traversers sought to bring about by illegal means what in itself was legal; and one of the means resorted to was the exhibition of physical force, and the intimidation to be thereby caused. There were two branches in the case, but it was not necessary to prove both, as he had given evidence on both points, affecting the traversers. The indictment says that the defendants did combine for certain purposes, but if they (the jury) doubted that any one of them was fully cognizant of the object in view, then they ought to give him the benefit of the doubt and acquit him. If any one of the party joined the rest without knowing the common object, and that person was made a dupe of, far be it from him (the Solicitor General) to say that such person, joining without a guilty intention, should be punished. But if you come to the conclusion that the parties did combine, as laid down in the indictment, then you must find your verdict accordingly. He should now draw their lordships' attention to the definition of the law of conspiracy, and he would beg of the jury to attend to the observations which he should have to make upon it, though his observations were more particularly addressed to the court, as it was from them they would receive such directions as would enable them to judge rightly as to the law of the case. There had been a sort of doubt thrown by the other side upon the law of conspiracy, as laid down in some recent authorities. That definition was simply this—a conspiracy was an agreement or combination, either to effect a purpose unlawful in itself, or to bring about a lawful purpose by unlawful means. That was laid down by Lord Denman in the case of the King v. Jones, 4 Barnwell and Adolphus, and he would request their lordships to observe that Lord Denman never did contradict that definition of the law. He says distinctly that the indictment for a conspiracy should

charge the intent to bring about an unlawful object, or a lawful object by unlawful means. Mr. Fitzgibbon, upon what authority he (the Solicitor General) did not know, had taken upon himself to say, that was merely a dictum; but it was the deliberate judgment of the court, that because the indictment in that case did not contain a charge of either branch of conspiracy, therefore it was bad. Mr. Justice Parke used the same language, and he need not tell their lordships that he was one of the most distinguished judges upon the bench, and particularly conversant with criminal law. It, therefore, was not a dictum of Lord Denman, but an elaborate decision of the judges who presided. The case of the *King v. Seward*, first Adolphus and Ellis, page 713, showed the same language to have been again held by Lord Denman, and Justice Littledale concurred in it. Then came the case on which Mr. Fitzgibbon relied so much in 9 Adolphus and Ellis, page 690, in which he said Lord Denman retracted the previous definition of the crime of conspiracy. He (the Solicitor General) would say, that when he first read that case he did not understand, as he thought he now did, the meaning of the particular observation of Lord Denman, which he appeared to have used in answer to counsel on the argument. The counsel cited the case of the *King v. Seward*; but Lord Denman said he did not think the antithesis was correct, and he took the meaning of that to be this: it was incorrect in point of strict propriety to use the word "purpose," because it could not be correct to charge the procuring of a lawful purpose by unlawful means. It was the purpose that constituted the crime, and the word that he should have used was—act. Whether a man combines to do an act legal in itself by illegal means, or to do an act that is illegal, the purpose in both cases is illegal. It, therefore, was not correct to say that in any case of conspiracy there could be a legal purpose; and, therefore, Lord Denman's criticism that the antithesis was not correct, implied that there could be no legal purpose in a conspiracy. In the report of the same case, by Perry and Davidson, page 510, the words did not occur. The definition of conspiracy by the late Chief Justice, in the case of the *King v. Forbes*, was to the same effect. And a similar decision was made in the case of *Watson*, reported in the 32d volume of the State Trials; and yet Mr. Fitzgibbon had taken upon himself to question the soundness of that definition; though he had not favoured them with any other, or referred to any authority, or, what he had so much ridiculed, any dictum to the contrary. In the case of the *King v. Seward*, and which was reported in 3d volume Neville and Manning, page 561, the words of Lord Denman were correctly given by these gentlemen—and he saw it there laid down that no indictment for a conspiracy could be maintained unless it charged that the defendant conspired to do an unlawful act, or a lawful act by unlawful means—not a purpose—and, therefore, it was perfectly plain what Lord Denman meant by saying that it was an incorrect antithesis. He should now proceed to explain to the jury what was the cause—the necessary cause—why these prosecutions were delayed until the period at which they were commenced. He had already observed upon the singular nature of the defence of that sort. Did they remember how frequently Mr. O'Connell had assured his followers that he was violating no law whatsoever—that he would carry them safely through the convention act—that he would



have his council of three hundred sitting in the presence of the Attorney General---and that he hurled his high and haughty defiance at the law-officers of the crown? Was such language as that consistent with the line of defence which he had adopted when he came into court, and taunted the crown prosecutors with having suffered the repealers to violate the law, and to proceed in illegal practices week after week, and month after month, without interruption? Mr. O'Connell hurled at the law officers of the crown his high and haughty defiance; and when they accepted **they** challenge, was it not his duty to come forward and show that he had not violated the law? Was it not clearly due to the men whom he had deluded into a fatal infatuation---was it not due to his followers---to his co-traversers, and to the public generally, that he should come forward and demonstrate to the world that, in truth, no violation of the law or of the constitution had been attempted? The crown had not imputed to any one of those meetings the character of illegality, on the grounds that they had a tendency to disturb the public peace; and if this fact had been kept in view by the counsel for the traversers, these gentlemen might have saved themselves a vast deal of unnecessary trouble in quoting long extracts from Mr. O'Connell's speeches, and calling the attention of the jury, again and again, to the circumstance of that gentleman's having repeatedly admonished his hearers to conduct themselves in a peaceable manner, and not to outrage the public tranquillity. They might have spared themselves an infinity of trouble upon that point, for it was the purpose and object of the meetings, and not the demeanor of those who attended them, that left them open to prosecution. The counsel on the other side had dwelt with great energy of language upon the fact of the meetings not having been prosecuted for such a length of time, and wished to draw, from that fact, an argument in favour of their legality. To this branch of the case he would now briefly address himself, and he hoped to be enabled to vindicate the conduct of the government completely from the aspersions which had been cast upon it. Suppose the crown had selected a repeal meeting in the month of March last, and had prosecuted those who attended it for being present at an unlawful assemblage, what would have been the defence, and the triumphant defence in that case? It would manifestly have been this---that the meeting terminated peaceably---that although numerous attended, it did not at that time cause any alarm to the public---that the parties assembled, met together for the ostensible purpose of petitioning the legislature for the repeal of an act of parliament. Such would have been the defence, and the crown would not have met it---they would have been foiled in their prosecution by such a line of defence. But the jury had something yet to learn respecting the state of the law in respect to such prosecutions as the present, and the court, he was sure, would tell them that he was right, when he assured them, as he now did that it was not merely the conduct for the time being of the persons who attended a meeting, which rendered that meeting criminal or illegal---violence, breach of the law, tumult, intimidation, or injury to life or property, these were not the only circumstances which rendered a meeting illegal, and subjected to prosecution those who attended it. No doubt the meeting together of a number of persons who met for the purpose of offering injury to person and property, was sufficient to

constitute an illegal meeting ; but a meeting might be unlawful because it had an unlawful object ; because it was the means resorted to to bring about an unlawful end, and until we knew what that end was, until clear evidence could be adduced to prove the conspiracy to which those meetings were ancillary ; until the time had arrived when the crime and purpose of the traversers were capable of legal proof in a court of justice ; until, he repeated, the time had arrived when all those things could be clearly demonstrated, it would be impossible to show that any one meeting was *per se* illegal. But, when circumstances had occurred to show the purpose kept in view all along by the parties who caused that meeting to assemble ; when that purpose was clearly demonstrated by their subsequent acts, as the conspiracy proceeded to its termination, then, indeed, the subject assumed a different complexion, and the original meeting, which, standing by itself, could not be prosecuted as illegal, became at once criminal, unlawful, and open to prosecution ; and it was for this reason that he pronounced the repeal meetings unlawful, because it appeared that they were held for the unlawful purpose of exhibiting to the legislature and people of England a demonstration of the physical force of the country, which, it was expected, would frighten and intimidate them into the concession of the measure which they (the repealers) desired to obtain. He did not know where his learned friend had found the facts which authorised him in charging her Majesty's government with conniving at the breach of the law, and tacitly sanctioning the repeal agitation. This alleged connivance assuredly was not to be found in the speech of Sir Robert Peel on the 9th of May, neither was it to be found in the speech from the throne, nor yet in the dismissal of the magistrates for attending repeal meetings. Were these things marks of the government's sanction of this insane and absurd project ? No ; repeated warnings had again and again been given, and there never were traversers who had less cause to complain of being seduced into the commission of crime than Mr. O'Connell and his friends. Before the crown resorted to a prosecution, it was necessary they should clearly understand the nature and character of the conspiracy, and that they should be enabled to make out such a case as would satisfy every intelligent hearer, and make it imperative on the conscience of the jury to return a verdict of conviction. Did they think that it required no time and no trouble to collect the evidence so as to make out the case satisfactorily ? No, it required a vast deal of time, care, and anxiety, to collect, collate, and arrange the evidence ; but when they found, by certain proceedings which had been kept out of the jury's view for the last fortnight, what those men had in contemplation, it then became the duty of those to whom the administration of the law was entrusted, to use their exertions to vindicate the law and to avert the progress of this frightful evil. He was surprised to hear gentlemen say that the repeal agitation ought to be put down by a coercion act. If a coercion act had been resorted to, would it not have been branded as a vile attempt to interfere with the rights of free discussion ? People would have exclaimed---why not have recourse to the common law to put it down ? They had brought this case forward in a regular, legal, and constitutional way ; and he hoped he might say that there was nothing intemperate in the manner ; nothing at all to testify a vindictive feeling

on their parts. He thought they could not be accused of not having given the traversers the fullest latitude; they had permitted the introduction of many topics irrelevant to the discussion of the case; they made no objection; raised no technical difficulties, but permitted them to read speeches; and to make their comments upon them. He would say it was most unfair to impute to the government criminal apathy with regard to the progress of this evil; or, when they had taken up the case, to attribute to them any attempt to overbear public discussion, or to crush constitutional rights. Well, he had mentioned that a meeting might be unlawful, not merely from the circumstances which accompanies it at the time it takes place, but from its tendency and object. In the case of Redford and Birley, already adverted to, the court distinguished between a riot and an unlawful assemblage, defining an unlawful assembly to be where they meet together in a manner, and under circumstances which the law did not allow. The law made it criminal in these persons to meet together in such a manner, knowingly and with such purposes; now, it was impossible that counsel for the crown could satisfy you as to the purpose of those meetings till that purpose was avowed. He would show them by and by that it had been avowed. But it was right that he should disabuse the public mind with respect to another objection which had been urged against the proceedings in this prosecution. It was said, if those meetings were unlawful, why not prosecute them as such? And, if they could now show that such a meeting was unlawful, even with reference to its purpose, why not indict the parties present at that meeting for attending an unlawful assembly? Now, in the first place, being persuaded that this combination which they charged, did, in point of fact, exist, and feeling it to be their duty not to prosecute the inferior and subordinate instruments by whose instrumentality the purpose of that combination was sought to be effected, but that they ought, at once, to bring forward the heads of it to trial; feeling that to be their duty; the bold, straitforward, manly course to be pursued; they saw that that could not be done except through the medium of an indictment for conspiracy. Now, if, as it had been contended they ought to have done---if they had included in the indictment for conspiracy, counts for attending an unlawful assembly, they would have exposed themselves to the risk of defeat upon technical and legal grounds. Because it had been decided that if you include in one indictment several defendants on a charge of conspiracy, and also put in a charge of attending an unlawful meeting, and you fail to prove that all the defendants attended that meeting, you must elect between the two charges, and cannot proceed on both. That was decided in *8th Carrington and Paine*---the *Queen v. Murphy*. It was asserted, in that case, that the traversers did not attend the meeting, which was the subject matter of one of the counts in the indictment, and counsel for the traversers called on the court to direct counsel for the prosecution to elect on which charge they should proceed. They did so, and proceeded solely on the count for conspiracy. But there was another and a still more serious, and insuperable difficulty which would have attended the course which, as it was contended, in this case, they ought to have pursued---that was to say, the course of including a count or counts, for attending unlawful meetings, with a count for conspiracy. Their lordships would recollect that the gist of

the charge here, the conspiracy, was evidenced by the number of meetings that took place, by the continuity, the unity of purpose that was evinced at each of these successive meetings; every one of them was a link in that combination, and every one of them was a step in the further prosecution of it. It was, therefore, indispensable that all the meetings should be brought under the consideration of the court and jury. Now, those meetings took place in every part of Ireland, or at least, in many parts—in Galway, Waterford, Meath, Mullingar and Tara. The court would tell them that not one of those meetings could have been tried in this indictment, because it was a principle of the criminal law that the trial must take place in the county where the offence was committed. Now, there were twenty meetings of which they had heard in evidence, and there must have been twenty indictments before twenty different juries, if the crown adopted the course of including counts for attending unlawful assemblies. They could not try the Tara, Mullingar, Lismore, Mullaghmast, or any of the other meetings of which they had heard evidence given. It was, therefore, idle and preposterous to say that the crown could adopt any other course than that which they had done, in order to accomplish what he avowed was the object of the prosecution, to bring to justice, the real delinquents in this conspiracy. He would not take up more of their time by observations upon that part of the case which related to the conduct of government in adopting these prosecutions, and not bringing them forward at an earlier stage. But his friend Mr. Sheil, after having dwelt at considerable length on that subject, had thought fit to address himself to another topic, which he thought, if he had recollected what took place before this trial, he might have spared. He (Mr. Sheil) paid the court the compliment of saying that he did not believe the judges to be corrupt. He said he would not throw out an insinuation to the contrary, and ultimately he said he believed they were not corrupt. He (the Solicitor General) should not presume to vindicate the high tribunal before whom he was then pleading; but that observation of Mr. Sheil was followed up by another, to which he thought it was right to refer: he meant his observations relative to the constitution of the jury which this trial was before. They would recollect this quotation from Mr. Borrowes' speech at Mr. Kirwan's trial. He animadverted upon what he very properly, as far as the legal use of the word went, designated the array of the jury on that occasion. He impugned the conduct of the officer who arrayed that jury, for not having put upon it some Roman Catholics. It was the most monstrous perversion of justice to apply an observation of that sort to such a jury as the present—a jury, not returned by the sheriff, not arrayed by him, but selected by ballot, out of seven hundred and seventeen names. Did they mean to say that there was any impropriety in the ballot for the jury on the part of the law officers of the crown. It was stated by Mr. Sheil, that when the forty-eight names were drawn out, it was found that those of ten or eleven Roman Catholic gentlemen had been struck off by the Crown Solicitor, and that consequently the jury was a packed one. Now, he (the Solicitor General) must confess he was astonished at what he must call the temerity of his right hon. friend in again drawing the public attention to this subject. Upon a motion which was made in this cause the foul insinuation was made—foul he called it, because he thought the Crown Solicitor had never

been actuated by such a feeling as was imputed to him---namely, that of striking off the names of gentlemen because they were Roman Catholics. The Crown Solicitor was bound by his duty to strike out twelve names; he struck out twelve accordingly, and in those twelve were included the names of ten gentlemen professing the Roman Catholic faith. Upon that occasion Mr. Kennis made an affidavit in which he stated that he had received information which he then and still believed to be true, that those ten gentlemen were members of the Repeal Association. He was answered that the fact was not so, and it was distinctly stated that that answer would be supported by affidavit. And who was it that made that statement? Why, Mr. Sheil himself. He rose, and when the fact was read from affidavit, he distinctly said that he was authorised to contradict that statement, and that the contradiction would be made upon affidavit the next morning. From that hour to the present no such affidavit had been made. Whether it could be made he (the Solicitor General) had his own opinion. The making such affidavit was a serious thing; suffice it, however, for the present to say, the affidavit had not been made. He should have thought it irrelevant, as well as improper, to have, at all alluded to this subject, had it not been made a prominent part of the statement of Mr. Sheil; and he thought it would be a great dereliction of his public duty if he did not give to it a full, explicit and satisfactory answer; and having done so, to ask the jury to expunge from their minds any impression that had been made in reference to that part of the case. It was a wrong thing for his learned friend to insinuate, if not directly charge, that the jury he had now the honour of addressing was a jury in any degree selected by the crown, or that the exclusion of any gentleman from it was the result of the religious opinions he professed. He (the Solicitor General) asked the jury, as men of common sense, would it have been right for the law officer of the crown to have allowed members of the association, the legality of whose acts it would be their duty to determine, to sit in judgment upon those acts? Was it what the gentlemen on the other side would call fair or impartial, in the administration of justice, that the jury should be so constituted? Mr. Sheil made another remark in reference to the alleged partiality or the alleged prejudice which might exist in the minds of the jury with respect to his clients. He said "you are a jury of Protestants, sworn to decide a case in which the traversers at the bar are Roman Catholics. Your verdict ought to be satisfactory, and I therefore call on you to make compensation to the traversers at the bar for the disadvantage under which they labour in having the merits of their case decided by those who differ from them in their religious opinions."

Mr. Sheil—My learned friend is not quite accurate; but unless the matter were one of great importance, I would be unwilling to interrupt for the purpose of setting him right.

The Solicitor General—I certainly have the word "compensation" here, as having been used by you.

Mr. Sheil—Yes; I used that word I admit, but what I said was this, that I thought the jury would be more solicitous in taking into consideration the nature of the case as it affected the defendants, in consequence of the names of sixty-five Roman Catholic gentlemen having been struck out of the panel.

The Attorney General---No, no---that was not it.

Mr. Sheil---That is what I intended to convey.

The Solicitor General then proceeded to say he would not dwell on this subject, further than to observe, he was sure that the jury would not suffer any observation made to them, in reference to it, to have the effect of inducing them to swerve in the slightest degree from the important duty they had to discharge. Mr. Sheil then adverted to the nature of the charge itself, from which he said he would rescue his clients, and he proposed doing so upon the principle of the right which, he said, existed in the subjects of this country to meet and discuss their grievances, and to petition the legislature for a redress of them. With respect to that, he (the Solicitor General) must say, he at once conceded the existence of that right. For the present he should only make that observation, but when he came to deal with the evidence he thought he would satisfy the jury, unless he was greatly deceived, that the right in question was in the course of these proceedings a mere pretext. He used the words, "in the course of these proceedings," for he did not at present mean to say that anything that occurred in the Repeal Association in 1841 or in 1842, so far as he knew of, ought to be made the subject of a prosecution, or could be successfully prosecuted. But he made this observation, and he begged the attention of the jury to it, that it was for the conduct of the parties at the bar, connected with the repeal meetings in 1843, that they were brought before the court; and he thought they would see by and by that whatever might be the original constitution---whatever might be the original object, or the original conduct of the association which was formed in the month of July, 1840, the persons who were promoting the designs of that association in 1843 were pursuing a course utterly at variance with the law and the constitution of this country, and therefore he made a present, to the gentlemen on the other side, of all the speeches which were made by the parties in 1840, 1841, and 1842. With regard to the meeting in 1810---at which Mr. O'Connell delivered a speech which was read to them, the high sheriff presided, and many respectable citizens attended---he fully admitted that he saw nothing in that meeting, or the proceedings at it, which was at all at variance with the law. He further admitted that the sentiments of Mr. O'Connell were, to a certain extent, and a certain extent only, identical with those which he latterly professed; but they were not trying Mr. O'Connell for inconsistency. They were not saying that the traversers had, for the first time, in 1843, proclaimed themselves friends to the severance of the legislative union. He was willing to admit that Mr. O'Connell always entertained that opinion; but they were prosecuting them for endeavouring to carry out those principles in 1843 by unlawful means; and if in 1810, 1800, or any period antecedent to 1843, the same course had been pursued as that which had been adopted in 1843, the traversers would have rendered themselves liable to a prosecution. The meeting in the year 1810 was perfectly constitutional and legal---a requisition of most respectable merchants was presented to the sheriff, and he convened that meeting; but where was the use of bringing forward these proceedings to bear upon the case, when they had no analogy to a succession of multitudinous meetings, convened for

the purpose of intimidating the legislature? A reference was made by Mr. Sheil, to meetings held by other parties. He (the Solicitor General) would not take upon him to say whether those meetings were or were not legal; a single meeting took place, at which there was no breach of the peace committed, and he confessed he saw nothing in it which subjected those who attended it to a prosecution. What opinion, he would add, could the counsel for the traversers have of the understanding of the jury if they thought to convince them that this circumstance bore upon the present case? Mr. Sheil also argued that the same means had been resorted to by Mr. O'Connell to carry repeal, as those which had been employed by him in carrying emancipation—namely, the peaceable demonstration of what was called “moral force.” Now, as an abstract proposition, he would not dispute that it was perfectly legal to obtain in any way the law allowed—in any fair way—the expression of the popular feeling—to demonstrate to the legislature what were the wishes of the great majority; but it should be done by petition, by peaceable meetings and constitutional proceedings. Had the traversers acted in this manner, no prosecution could have been instituted against them; but what they were charged with was the demonstration of physical, not moral force. The case for the crown was not that there was an exhibition of moral force, or of the will of a great number of the individuals of this country, but that there was an exhibition of physical force, not to satisfy parliament, that a certain measure should be granted, but to show that if the measure were not passed, a convulsion would ensue. Mr. Sheil also adverted to the manner in which Mr. O'Connell acted in the case of Sir Abraham Bradley King. He did not wish to deprive him of any merit to which he might be entitled, and, indeed, he had not lost the benefit of the circumstance, for it had been frequently adverted to by himself and others; but it was preposterous that an act of that sort, however meritorious, should be offered to the consideration of the jury, as an explanation of the conduct of Mr. O'Connell, when charged with a conspiracy. He should then pass to the observations of Mr. Moore, who appeared on behalf of Mr. Tierney. He (Mr. Moore) arraigned the policy of the government in instituting that prosecution—and observed, that it would not, under any circumstances, allay the agitation which prevailed in Ireland. Whether it would or not, it was not for him to say—nor for the jury to say; he had his own opinion upon the subject—so might others; but he called upon them not to act upon any opinion of the kind. Even if they were persuaded that the result of a verdict of guilty against the traversers would tend to allay that pernicious agitation, yet if they were not satisfied by the evidence that they ought to find that verdict, he called upon them not to find it—if, upon the other hand, they conceived that a contrary verdict would have an opposite effect, they should not be influenced by such a consideration in giving their verdict; they should recollect the oaths which they had taken; and it was their duty, regardless of consequences, to find the verdict for which the evidence called. He required them to find their verdict from the facts only, and discard from their consideration all such feelings as those which had been most improperly imported into the case. Whatever might be the abstract probability of carrying a repeal of the union, if the means in which the agitation of the measure was conducted, were found to be mischievous, to

the community, the public, and the country at large, it was the bounden duty of any government to use its utmost endeavours to put it down. Mr. Moore also said that the prosecution should have been against the publishers of the seditious speeches and papers; but that would have increased the evils complained of, and the desired object would not have been attained by such a mode of proceeding. But, said Mr. Moore, "Here is an unfair, oppressive, and unjust proceeding, in putting all the traversers into one indictment—throwing down (what he called) a monster indictment upon the table, and calling upon the jury to spell out from that mass, evidence to convict the traversers of a conspiracy." No doubt the indictment was a large one. Why was it so? Because the overt acts necessary to sustain the charge of conspiracy were numerous; but the charge itself was perfectly simple and plain. In the commencement he read to the jury the distinct charge in the indictment, and they could not have the slightest difficulty in comprehending what it was. Were the counsel for the crown—because the facts necessary to lead the jury to the conclusion that the traversers had been guilty, were numerous---to be taunted with having resorted to an unfair, oppressive, and unjust mode of proceeding? Why, those matters which had been put forward in the indictment might have been altogether omitted. Mr. Moore did not say that the Attorney General had lain by for the purpose of seducing persons into the commission of crime, but he said that it was the duty of the first law officer of the crown to show that crime had been committed, and when it was first detected that it should have been repressed. He (the Solicitor General) did not wish to use anything like personalities, but he could not avoid saying that Mr. Moore had used very strong language, indeed; he should have considered, before he used the language he did, what the real nature of this case was; he must have known perfectly well that the charge was not for attending an illegal meeting; that it was not the publication of a libel; that it was not a breach of the public peace, but that it was the formation of a settled design, testified by the acts of the parties, to procure a repeal of the legislative union by intimidation; first, by raising a spirit of discontent, against the constitution, amongst the people of this country; secondly, by exciting a spirit of discontent and ill-will against the government; thirdly, by exciting discontent and disaffection in the army; fourthly, by raising a spirit of ill-will and discontent against the administration of justice; and fifthly, by collecting together these mighty multitudinous meetings. Mr. Moore should have known, and did perfectly well know, these were the charges, and he was not warranted in saying that this prosecution was unnecessarily delayed. Mr. Moore adverted to another topic which was by no means legitimate; he commented at considerable length upon the fact that the grand jury had taken a long time to deliberate before they found the bills of indictment. How could a case of that magnitude be disposed of by any conscientious grand jury without taking some time to consider it? Mr. Moore also laid great stress upon the very extraordinary topic, that one of the grand jury said publicly in court that he did not concur in the finding. That was a most improper observation for the juror to have made, for, by the laws of this country, the grand jurors were bound by their oaths not to disclose their secrets, and, under those circumstances, Mr. Moore's statement, with reference to that



fact, ought not to have the slightest effect whatever. Mr. Moore next said that a charge of conspiracy was made, and it should be shown ~~when~~ and where it was concocted. There never was anything like that heard of upon a charge of this sort; Mr. Moore himself, and every other gentleman who addressed the court for the traversers, admitted that it was not necessary to prove that Mr. O'Connell, Mr. Steele, Dr. Gray, and the other traversers, went into a room together and concocted this conspiracy. All that was necessary to be proved was the acts of the parties; and to say that the evidence did not prove the existence of a conspiracy, because they did not show the jury at what street, and at what time it took place, was an utter fallacy. They (the crown counsel) said it took place in 1848, and if they satisfied the jury of that fact, they felt convinced the court would say that the charge was perfectly proved. All they were called upon, or that they professed to prove was, that there was a community of purpose between several persons, amongst whom were the traversers at the bar—that each of these persons acted together for the prosecution of a common object, and that that could not have taken place unless the common object existed. The Queen *v.* Murphy, 8th Car. and Payne; and the Queen *v.* Frost, 9 Car. and Payne, were already quoted, and they sufficiently proved that evidence of the acts of the parties was sufficient to sustain a charge of conspiracy. Mr. Moore then said that the Attorney General had spoken of the disloyalty of the traversers. He (the Solicitor General) did not impeach their loyalty; he only said that they had embarked in an enterprise which was illegal, and although any one violating the law might, in one sense of the word, be said to be disloyal, yet he did not feel it necessary for him to impeach the general loyalty of the traversers. Next, Mr. Hatchell, who appeared as counsel for Mr. Ray, insisted that his case was different from that of the other traversers, inasmuch as he was the paid officer of the Repeal Association—that he was paid a salary for the functions he had to perform, and that he was therefore merely discharging his duty. If the acts of the association were unlawful, Mr. Ray had unquestionably made himself as responsible as anybody else connected with it, by concurring in them. Mr. Hatchell then asked why some member of the association was not called to prove the existence of the conspiracy, or why the crown did not omit Mr. Ray's name in the indictment and examine him as a witness. If the crown did that, the very first thing that would be said would be, that Mr. Ray had become the hired spy, the paid informer and servant of the government. Would it not be said that his evidence should be received with caution and jealousy, for he had got the pay of the government to betray his associates? In the whole course of the case no person was produced by the crown who acted either as a spy or as an informer (although that epithet was applied to one of the witnesses to whom he would presently refer.) Further, if Mr. Ray was produced as a witness, his answer to the very first question put to him would be, an appeal to the Court whether he was bound to answer questions that might criminate himself. He was told that the crown had not brought forward evidence of the working of the association; but it should be remembered that all its proceedings were recorded, and he (the Solicitor General) wanted to know, where were the books—and why were they not produced? It certainly prevented Mr. Ray being a witness, by putting him in the

indictment. But where were the books ? for they did not prevent their production—on the contrary, they had called for them. There was not a single clerk or person connected with the association brought forward—not a single document was produced but public ones ; nor was there a single ray of light thrown upon the subject by the traversers, which he would more clearly show when he adverted to the evidence in detail ; so that, instead of detracting from the case of the crown the traversers' case would be found strongly to support it. It was said that trials of this kind took place in England, but there was no conviction ; however, the cases referred to, he contended, showed the contrary ; particularly, the *King v. Vincent*, 9th Carrington and Payne, 276. So much for the parts of the case alluded to by Mr. Hatchell. Then came Mr. Fitzgibbon, who called the prosecution a ministerial scourge to lash the people with. Now, he (the Solicitor General) must firmly protest against an imputation of such a kind, which he declared not to be justified by anything that had occurred in the conducting of the prosecution, and he would boldly assert that nothing was shown by the gentleman who used the words, from which he was authorised to form such a conclusion. He had not proved that the case was one that should not be investigated by a jury, which Mr. O'Connell frequently dared the government to, but which he had subsequently shown every disposition to evade when he was prosecuted. Mr. Fitzgibbon, however, said it was unfairly conducted, or, to use his own words, "a blow had been given below the belt," by which he meant that an unfair advantage had been taken. Now, he (the Solicitor General) on behalf of the crown, repudiated the assertion, and would only say that the blow given by the government was as fair and straightforward a blow as ever was struck. Mr. Fitzgibbon differed from Mr. Moore upon the law of conspiracy, but he (the Solicitor General) perfectly coincided with the latter gentleman. He contended that all the acts of the conspirators must be connected, and he cited a case in order to substantiate that proposition ; but what was the real state of the law, which he begged leave to submit to their patient consideration, under the direction of the court ? All that was necessary to show was, not that every person concerned concurred in each particular act, but that each of them, in his way, was labouring to effect the same common illegal object, or legal object by illegal means—which, being proved, the jury were entitled to infer the existence of a conspiracy. For instance, if Mr. Ray received money—if Mr. Duffy and Dr. Gray published the proceedings of the meetings, and if the other traversers handed in the money and made speeches, although each might not individually know what the others were doing at any particular time, they were trying to achieve the same end, and were liable for the acts of one another ; therefore, the charge of imputing the guilt to one man which was another's, was not true ; but if all were equally embarked in the one unlawful design, it was sufficient to make all liable. And was it lawful to conspire to obtain a repeal of the union by intimidating the legislature, and by causing disaffection in the army ? It was said that Dr. Gray was not implicated in this conspiracy, and that it was attempted to convict him for the public good. If they believed that to be the case, he called upon the jury to acquit him. He denied there was any desire to convict any man for the

fact, ought not to have the slightest effect whatever. Mr. Moore then said that a charge of conspiracy was made, and it should be shown when and where it was concocted. There never was anything like that heard of upon a charge of this sort; Mr. Moore himself, and every other gentleman who addressed the court for the traversers, admitted that it was not necessary to prove that Mr. O'Connell, Mr. Steele, Dr. Gray, and the other traversers, went into a room together and concocted this conspiracy. All that was necessary to be proved was the acts of the parties; and to say that the evidence did not prove the existence of a conspiracy, because they did not show the jury at what street, and at what time it took place, was an utter fallacy. They (the crown counsel) said it took place in 1843, and if they satisfied the jury of that fact, they felt convinced the court would say that the charge was perfectly proved. All they were called upon, or that they professed to prove was, that there was a community of purpose between several persons, amongst whom were the traversers at the bar—that each of these persons acted together for the prosecution of a common object, and that that could not have taken place unless the common object existed. The Queen v. Murphy, 8th Car. and Payne; and the Queen v. Frost, 9 Car. and Payne, were already quoted, and they sufficiently proved that evidence of the acts of the parties was sufficient to sustain a charge of conspiracy. Mr. Moore then said that the Attorney General had spoken of the disloyalty of the traversers. He (the Solicitor General) did not impeach their loyalty; he only said that they had embarked in an enterprise which was illegal, and although any one violating the law might, in one sense of the word, be said to be disloyal, yet he did not feel it necessary for him to impeach the general loyalty of the traversers. Next, Mr. Hatchell, who appeared as counsel for Mr. Ray, insisted that his case was different from that of the other traversers, inasmuch as he was the paid officer of the Repeal Association—that he was paid a salary for the functions he had to perform, and that he was therefore merely discharging his duty. If the acts of the association were unlawful, Mr. Ray had unquestionably made himself as responsible as anybody else connected with it, by concurring in them. Mr. Hatchell then asked why some member of the association was not called to prove the existence of the conspiracy, or why the crown did not omit Mr. Ray's name in the indictment and examine him as a witness. If the crown did that, the very first thing that would be said would be, that Mr. Ray had become the hired spy, the paid informer and servant of the government. Would it not be said that his evidence should be received with caution and jealousy, for he had got the pay of the government to betray his associates? In the whole course of the case no person was produced by the crown who acted either as a spy or as an informer (although that epithet was applied to one of the witnesses to whom he would presently refer.) Further, if Mr. Ray was produced as a witness, his answer to the very first question put to him would be, an appeal to the Court whether he was bound to answer questions that might criminate himself. He was told that the crown had not brought forward evidence of the working of the association; but it should be remembered that all its proceedings were recorded, and he (the Solicitor General) wanted to know, where were the books—and why were they not produced? It certainly prevented Mr. Ray being brought out by the crown.

indictment. But where were the books ? for they did not prevent their production—on the contrary, they had called for them. There was not a single clerk or person connected with the association brought forward—not a single document was produced but public ones ; nor was there a single ray of light thrown upon the subject by the traversers, which he would more clearly show when he adverted to the evidence in detail ; so that, instead of detracting from the case of the crown the traversers' case would be found strongly to support it. It was said that trials of this kind took place in England, but there was no conviction ; however, the cases referred to, he contended, showed the contrary ; particularly, the *King v. Vincent*, 9th Carrington and Payne, 276. So much for the parts of the case alluded to by Mr. Hatchell. Then came Mr. Fitzgibbon, who called the prosecution a ministerial scourge to lash the people with. Now, he (the Solicitor General) must firmly protest against an imputation of such a kind, which he declared not to be justified by anything that had occurred in the conducting of the prosecution, and he would boldly assert that nothing was shown by the gentleman who used the words, from which he was authorised to form such a conclusion. He had not proved that the case was one that should not be investigated by a jury, which Mr. O'Connell frequently dared the government to, but which he had subsequently shown every disposition to evade when he was prosecuted. Mr. Fitzgibbon, however, said it was unfairly conducted, or, to use his own words, "a blow had been given below the belt," by which he meant that an unfair advantage had been taken. Now, he (the Solicitor General) on behalf of the crown, repudiated the assertion, and would only say that the blow given by the government was as fair and straightforward a blow as ever was struck. Mr. Fitzgibbon differed from Mr. Moore upon the law of conspiracy, but he (the Solicitor General) perfectly coincided with the latter gentleman. He contended that all the acts of the conspirators must be connected, and he cited a case in order to substantiate that proposition ; but what was the real state of the law, which he begged leave to submit to their patient consideration, under the direction of the court ? All that was necessary to show was, not that every person concerned concurred in each particular act, but that each of them, in his way, was labouring to effect the same common illegal object, or legal object by illegal means—which, being proved, the jury were entitled to infer the existence of a conspiracy. For instance, if Mr. Ray received money—if Mr. Duffy and Dr. Gray published the proceedings of the meetings, and if the other traversers handed in the money and made speeches, although each might not individually know what the others were doing at any particular time, they were trying to achieve the same end, and were liable for the acts of one another ; therefore, the charge of imputing the guilt to one man which was another's, was not true ; but if all were equally embarked in the one unlawful design, it was sufficient to make all liable. And was it lawful to conspire to obtain a repeal of the union by intimidating the legislature, and by causing disaffection in the army ? It was said that Dr. Gray was not implicated in this conspiracy, and that it was attempted to convict him for the public good. If they believed that to be the case, he called upon the jury to acquit him. He denied there was any desire to convict any man for the

good of the public; the sole object in instituting the prosecution was, to punish an infraction of the law. Mr. Fitzgibbon then proceeded to say that he would explain every part of his client's conduct, and attempted to do so; but was it not extraordinary that he never adverted to one single meeting from the beginning to the end of 1843, with the exception of Mullaghmast, which he approached in a great hurry, and let it drop again very quickly, totally forgetting to advert to any one circumstance connected with it? Certainly he made some observations upon the meetings in the lump, and argued that all great improvements had been effected by the demonstration of physical force, stating that it could not be expected that a government would suddenly make a vast change unless it saw that the people wished it to be made. Now he (the Solicitor General) would ask, did Mr. Fitzgibbon mean to argue that the proceedings in the present case were to be justified on that ground? If he did, he would leave it to the jury to determine. He (Mr. Fitzgibbon) said that the Attorney General had no right to refer to former prosecutions or proclamations, but he would only say, that former meetings, documents, speeches, &c., of every kind, were referred to as matters of history, by the defendants themselves. Another argument put forward by Dr. Gray's counsel was, that he merely attended those meetings as a journalist in a professional way.

Mr. Fitzgibbon stated that he had said no such thing.

The Solicitor General continued to say, that no matter whether it was in that way or not, he was responsible for his acts. It was then contended that, although some strong language may have passed from the lips of some of the speakers, yet their conduct was not to be judged from such expressions; because it could not be expected that on great political subjects men would deport themselves with the same decorum as in a court of justice; however, on the subject under consideration, from the length of time it was agitating, and other circumstances, he had a right to say that the speeches read, were deliberately made, and the documents produced deliberately drawn up, with the intention of promoting the object which the traversers had in view. Mr. Fitzgibbon's next argument was a curious one. He said that if these parties were guilty of anything, they were guilty of high treason, and it was for that they ought to have been prosecuted. Whether these proceedings might have ultimately arrived at high treason, he (the Solicitor General) was not now called on to say; but it was very strange, indeed, to expect that the crown should prosecute for high treason, when they deemed that the conduct and proceedings of the traversers amounted only to misdemeanor. Mr. Fitzgibbon then, in alluding to Mr. O'Connell's observations with reference to the army, said that Mr. O'Connell's object was to make the people fond of the army. When they came to examine these speeches of Mr. O'Connell, they would see whether such could have been the object—at a time, too, when, in consequence of the multitudinous meetings which were held, it was deemed necessary to bring the army into the country to guard against an outbreak which appeared at any moment feasible. Mr. Fitzgibbon next adverted to the use of the term Saxon; and he asked why should its application offend? Was it not true, said he, that the English people were sprung from a Saxon origin? That certainly was not to be disputed;

but he (the Solicitor General) thought that the jury would have no doubt the word Saxon was resorted to for the purpose of inflaming the minds of the people of this country, and stirring up a feeling of hostility against the English people as strangers, invaders, and conquerors. Mr. Fitzgibbon then read speeches of Mr. O'Connell against physical force. These bore no relation at all to the case, and therefore he would not detain them by any commentary on that point. But Mr. Fitzgibbon said that Mr. O'Connell had always shown an aversion to Chartism and Ribbonism. He (the Solicitor General) admitted that to be the fact; but the reason for Mr. O'Connell's aversion to Chartism and Ribbonism, and all other societies was, that the existence of any other society or machinery, save and except his own, would have been fatal to his purpose and his party. Mr. Fitzgibbon next said that the language used in reference to the army was not addressed to the soldiery. That would be all very well if the language was not to be circulated through the country, but the jury would not fail to remember that one of the modes by which the objects of the traversers were to be effected, was the circulation of those speeches throughout the kingdom. This language was to be circulated among the soldiery, and one of the traversers, in an article which he published, expressed his opinion that it was a cruel thing that soldiers were not allowed to have newspapers. What was the meaning of that but that the soldiers were to have this language conveyed to them? This suggested to him another ground why a portion of the machinery of the association was to prevent a violation of the public peace, and enforce a strict present observance of the law. The object was to get as many as possible to enrol themselves; and this was to be done by personal contact, by the individual exertions and influence of the agents of the association. This could not be effected in the midst of riot and disturbance. It was necessary to have time to complete the work, and to give the repeal wardens the opportunity of enrolling the people one by one, and so completing their organisation, that, if the time should arrive, there would be no difficulty in convening them, all together for a purpose not legal. Mr. Fitzgibbon said that Mr. O'Connell had advised the people not to enter into correspondence with the army. Very true—but if he had not given that advice, he and his party would have fallen into the very trap it was his object to avoid. There would have been at once a breach of the law, for by the 57th George III., chap. 7, it was a transportable offence to tamper with the army; and, therefore, to have corresponded with the soldiery, would have been a dangerous proceeding. He (the Solicitor General) would not trouble the jury further on any of the topics to which Mr. Fitzgibbon had adverted. Mr. Whiteside had next addressed them, and never was there, he was bound to say, a more splendid exhibition of eloquence than his learned friend displayed. The powers he had exhibited reflected credit on the profession and he would add, upon the country to which he belonged. He had listened to him with pleasure, the more particularly as his speech was delivered in a tone of perfect good feeling. His learned friend had, in his address, taken the only course which could have given him a hope of success. He endeavoured to divert their attention from the merits of the case, and to raise a laugh at some of the points. He also stated that Mr. Duffy was only the editor of the *Nation*, and that as he had not been

prosecuted for the articles which appeared, he (Mr. Duffy) had a fair right to assume that he was acting legitimately. That was a fair matter for argument if the assertion were correct—but he (the Solicitor General) must dissent from the statement that Mr. Duffy had appeared only as the editor of that paper. The *Nation* was set up in November, 1842, and the strength of the case for the crown depended on the acts done subsequently. He did not know whether the jury were in the habit of reading that paper; but portions of it had been read on the trial—and, after hearing them, must not the jury admit that he was justified in saying that it was established for the purpose of disseminating the sentiments and opinions of the persons compassing that combination? Mr. Whiteside said that they (the crown) had as good a right to seek to commit any other editor of a paper as Mr. Duffy, because they had not, in this case, proved community of purpose; but they had shown it. If they showed that these gentlemen embarked in that plan at any time, they were as guilty of combination, in point of law, as if they had assisted Mr. O'Connell from the commencement. Mr. Whiteside had referred to the case of Redford and Birley, to show that there were no grounds for prosecution in this case; but he would refer to page 106 of that report, to prove the contrary. (The Solicitor General then read the passage.) Mr. Whiteside adverted to Hunt's case, and endeavoured to contrast it with the present; but the facts of that case relied upon by Mr. Whiteside fully established the illegality of the meetings, which, therefore, fully justified the verdict given. Mr. Whiteside had said that the legality or illegality of the meetings did not depend upon the numbers which formed them; that was not a question necessary to be discussed there. Mr. Whiteside had also referred to the meeting as to the Dorchester labourers, and gave it as proof of the meetings in this case being lawful. He then added that the meetings charged in the indictment were not disloyal, and that no breach of the peace had occurred at them. Mr. Whiteside had also said that Mr. O'Connell was not bound to take notice of Sir Robert Peel's speech; but he had taken notice of it; and he (the Solicitor General) charged him with that as a proof of his attempts to mislead the people as to the intentions of the Sovereign and the law of England. He (Mr. Whiteside) had also said that the meetings took place before Sir Robert Peel's speech. But that was not the fact; for the speech was delivered on the 9th of May, 1843, and the meetings, which were principally charged against the traversers, occurred about October, 1843. Mr. Whiteside had also adverted to the act of parliament which was passed in 1832, against party processions, and said that act was levelled against a particular party; but that was not apparent on the face of the act—and any man, no matter who, violating its provisions, would have been guilty of a breach of the law. He (Mr. Whiteside) had alluded to the speeches in the Irish parliament in which it had been questioned whether posterity would validate the act of union. He hoped Mr. Whiteside did not mean that posterity were at liberty to violate it. If it was merely meant that it would be legal to petition for its repeal, he would not deny it. He had also referred to the possibility of a measure being introduced by ministers for the holding of the parliament in Dublin at stated periods. Mr. Shiel had also alluded to such a measure—but his client, Mr. John O'Connell, had upon the next

day dissented in court from the proposition. Mr. Whiteside had also alluded to what occurred upon the trial of Hardy, a portion of whose defence was a letter, written by the Duke of Richmond. The Duke of Richmond was examined as a witness, and proved the writing of that letter. The Solicitor General then read the letter, which stated the Duke's wish that the connexion between Great Britain and Ireland might be established on a fair footing. The letter went on further—"I have always thought it our interest that the two islands should be incorporated, and form one and the same kingdom. But if there are great difficulties in the way of such an union, there ought to be some sort of federal union, at least, between the two kingdoms. I do conceive that some step of this kind is absolutely necessary, because the present footing of separation, rather than union, is too favourable to continue long." This was in 1794. Now, what was the view of that nobleman in that letter as to the consequences of separation between the two countries? He (the Solicitor General) might have occasion to advert to this a little more fully when he came to what he might call his case, for they must understand him up to this moment as only answering certain observations and topics thrown out by the counsel on the traversers' side. When it came to be inquired, in the proper place, whether the union ought to be repealed or not, those circumstances might not be improper to consider. But this was not the question they had to try; however, Mr. O'Connell might seem to think it so. He came next to another authority cited by Mr. Whiteside, taken from Peake's Reports, 1st vol., the *King v. Reeves*. That was a prosecution of Reeves for a libel, and that libel was certainly a very gross one—no less than this—that it was competent for the crown to make laws without the intervention of the Houses of Parliament at all. The House of Commons voted that to be a seditious libel, and that it ought to be prosecuted. It was, however, relied upon that the jury who tried the case acquitted the defendant. But they acquitted the parties because they held that the party did not publish the libel with a bad intent. He came next to make a few remarks upon what fell from Mr. Henn. Mr. Henn told them that he was unexpectedly called upon to address them. He (the Solicitor General) believed that was perfectly true—yet he suspected it was felt that, up to that time, there had not been a satisfactory explanation given of the main features of this case, or any satisfactory solution of the designs of the parties who were charged with this conspiracy, or of the offence with which they were charged; and accordingly, Mr. Henn was called upon to buckle on his armour at the eleventh hour, and certainly it showed very great discretion on the part of the traversers. He thought when the jury came to consider what was relied upon by Mr. Henn, it would be found to be neither more nor less than this—a sophistical repetition of certain arguments which had been brought forward before, and which were thought and felt were not such as could be safely relied upon as they then stood before the court and the jury. As far as he could collect his learned friend's argument, it was this—I admit said he, in the fullest sense of the word, that the act of one party is evidence against others, if they have embarked in the prosecution of any crime or unlawful purpose. But, said he, if the parties were engaged in a legal design—then, I say, it is



most monstrous, unjust and unfair to visit upon Mr. Duffy, for example, what Mr. O'Connell said, or to visit upon Mr. Ray what Mr. Steele said, and soon. That is what is attempted to be done here, said Mr. Henn; and then he went on to say---I candidly avow that the object of my client and the other traversers was to obtain a repeal of the legislative union; but that is a legal object. Now, this argument was all very plausible, but unfortunately it involved the assumption of the very question in issue. It begged the question. He did not deny that the common objects of those parties were, as Mr. Henn said, to procure a repeal of the union; but he further said, that having that object in view, they had the further object of attaining their objects by the use of unconstitutional and illegal means; and it would be the most monstrous thing in the world to say, that because it might have been fairly urged that these parties sought to obtain that which might be justifiable, if sought by legal means, they might therefore seek to obtain it by means such as were charged in the indictment. The learned gentleman, after repeating the charge made in the indictment against the traversers, went on to say, he hoped the jury would understand that the crown were not prosecuting the traversers for pursuing any other than an unlawful purpose. Mr. Henn, in his address to the jury, said, the charge was a vague and very general one, but he (the Solicitor General) would call their attention to the facts existing in the charge as laid in the indictment. It was a charge for exciting discontent and disaffection in the minds of her Majesty's subjects. He then cited the cases of the *Queen v. Vincent*, the *King v. Hunt*, and *Redford v. Birley*.

Judge Perrin---Is there any case, as cited, where a single charge was so preferred?

The Solicitor General said there was, and that his lordship would see it on referring to the cases cited. He would reserve his observations on the part of Mr. Henn's speech, which had reference to the meetings and the number of persons who attended them, until he came to that portion of his address to the jury. He would not, at present, say more on the several topics introduced by Mr. Henn, but he would proceed to state to them what appeared to him the evidence and the result of it.

Chief Justice---Before you go into any new topic, don't you think it would be right to give you a little breathing time.

Solicitor General---Thank your lordships.

The court then retired for a few minutes.

When their lordships returned to court,

The Solicitor General resumed his address. He observed that in the case of the *King v. Vincent*, which was reported in the 9th volume of Carington and Payne, the traversers were tried for a conspiracy. The indictment in that case had been sent purposely to London, and by a reference to it their lordships would find that it was exactly similar to the indictment on which the present traversers were arraigned, and it should be borne in mind that in Vincent's case the jury returned a verdict of guilty against the traversers. There was a second count in the indictment, charging the defendants with having conspired to meet together for the purpose of spreading terror and alarm, and there was a general verdict on the whole case. In the case of the *King v. Sherrard*, which would be found reported in the next page, the indictment was also for conspiracy, and there, too, there was a verdict of guilty.

Mr. Justice Perrin---The case of the King *v.* O'Connor has been referred to by Mr. Whiteside, but if I am not mistaken, Baron Rolfe appeared to think that the count was too general.

The Chief Justice---I do not think that we can receive in evidence Mr. O'Connor's report of his own case.

Mr. Justice Crampton---Oh, certainly not.

Mr. Justice Perrin---Another authority has been relied upon by the Solicitor General, a case in first Adolphus and Ellis, but that too, I think goes off on the ground of generality.

The Solicitor General did not mean to dispute that a count might not be too general, but he certainly thought that Vincent's case was a very fair authority, and there was a conviction.

Mr. Justice Perrin---If there be a finding on an indictment with one good count, the other count does not vitiate it.

The Solicitor General proceeded to address the jury---He would not apologise for having trespassed at such length on their time, for he felt how necessary it was that they should clearly understand the real question they had to try. Till they knew what the real question was, it was impossible to know the bearing of the evidence on it, and they could not understand that question, until it was relieved and disembarassed of the vast quantity of irrelevant matter by which it had been incumbered (excusably enough in the absence of better materials) by the counsel for the traversers. He must now call their attention specifically to the indictment. The traversers were arraigned for having, each and all of them, conspired for the purpose of exciting discontent and disaffection against the government and constitution. They were next charged with having conspired to excite animosity, ill-will, and jealousy between the different classes of the Queen's subjects, and especially for exciting in the minds of the people of Ireland those feelings against their fellow subjects in England. They were charged too, with having conspired for the purpose of exciting discontent and disaffection in the army, and also with having conspired to bring people together in vast numbers, in order that, by the demonstration of great physical force, changes might be effected in the law and constitution. They were further charged with having conspired for the purpose of bringing into hatred and disrepute the courts, established for the administration of justice, and to diminish the confidence of her Majesty's subjects in Ireland, in the administration of the law therein, and with that view to induce her Majesty's subjects to withdraw the adjudication of their differences with each other from the cognisance of the courts established by law, and to submit them to the determination of other tribunals, to be constituted and contrived for that purpose. What was the first count of the indictment? He had, to a certain extent, touched upon the subject to which he was now about to call their attention, namely, the alleged necessity of their being satisfied that the conspiracy was engaged in by all the traversers. Upon this point, as upon every other point of law, they would, of course, receive the direction from the court, and act upon it. Now, it was the nature of every criminal charge, that though it may lay the offence more extensively than the evidence afterwards is found to support; yet, if enough was proved to show the existence of what was, in law, a criminal offence, it was their duty

to convict upon so much of the charge. He would refer the court to three authorities upon the general principle. The first was the case of the King against Hornberry, 4th Barnwell and Cresswell, page 329; it was an indictment for conspiracy, falsely to indict a certain person for keeping a gaming-house, for the purpose of extorting money from him. The jury found the defendant guilty of conspiracy to indict the person for the purpose of obtaining money, but they did not find, on the contrary they negatived, that they conspired to indict him falsely. There was a motion in arrest of judgment that the jury had negatived the charge that was made, and the court said in criminal cases it was quite sufficient for the prosecution, to prove as much of the charge as constituted an offence punishable by law. Now that clearly showed that even upon a single count, laying a single conspiracy, though that conspiracy be not proved exactly in the form and manner in which it was charged in the indictment, they could find a verdict of guilty. The next case was the King v. —, it was an indictment for printing and publishing a libel. The only proof was the proof of publication; and Lord Ellenborough said it was universal enough to prove as much of the indictment as proved the defendant had committed a crime specified in the indictment. So in *Rex v. Dawson*, 2 Starkie, 64. He cited these authorities for the purpose of informing the jury that what they had to try was this—were the objects of this conspiracy proved?—was one of them proved, or more than one of them proved? If they were, it would be their duty to convict, though they were not satisfied that all were proved? He intended to submit, and had not the slightest doubt he would be able to establish, that every one of those acts was as clearly proved, in point of evidence, as anything that ever came before a court. But he was anxious to guard against any mistake as to the duty of a jury in deciding, upon an indictment, as if the question they had to try was not whether there was evidence, as to any, but whether there was evidence as to all. If six of them should be guilty, the jury ought to find six guilty—if two be guilty, they ought to convict but two, and so on. Having mentioned this, he would proceed to what he might call the history and detail of the evidence upon which they relied to support the present prosecution, and he was very much mistaken if they would not see in the history and progress of that evidence the most convincing proof that the traversers entertained the common object and purpose of endeavouring to effect the object which they admitted they had—to effect that by the use of those unconstitutional and unlawful means, which were stated in the indictment, to each of which, he meant to apply the particular evidence adduced. There was no doubt that this conspiracy, or confederacy, which they (the crown) said existed between the traversers and others, was chargeable against seven of the traversers, as being more or less connected with the head of this Repeal Association—their respective execution of his behests—their participation in his proceedings, and common combination to effect his designs. It was in this way, and upon these grounds, that these several parties were implicated in the charge. The “Loyal National Repeal Association” appeared to have originated, as far as the evidence went, and he did not profess to know more, in the month of July, 1840. It was at first called the “National Repeal Association,”

it shortly afterwards added the cognomen "Loyal." They had, of course, a perfect right to designate it by any term they thought fit, and he was not going to deny that it was not, in the abstract, their right to form an association for a legal purpose, and, therefore, he was not now saying, nor did he wish to be understood as laying down, that the mere constitution of that association was a violation of the law. The evidence did not authorise him to go that length, but he thought no man who had heard the evidence, not merely the evidence of the crown, but the evidence for the traversers, could entertain any doubt on this point; that, whatever might have been the real object of that body of persons when first established in 1840, in the year 1843, and early in that year, the purposes which they had in view became illegal; and that, supposing them to have been within the pale of the law up to that period, their conduct afterwards, after remonstrances, showed that they were actuated by the motives described in the indictment. He had already remarked upon the fact, that the *Nation* newspaper was set up in the month of November, 1842. Now, had they (the jury) remarked that the great bulk of the evidence which the traversers had brought forward—he meant the speeches and proceedings of this body—had reference to the years 1841 and 1842? He did not mean, at present, to say that that which was stated by Mr. O'Connell and other members of the association, in 1841 and 1842, was not fairly and legally said. He did not mean to say that they were guilty of any violation of the law for making the speeches they did at any of those periods. But what was the fact with regard to the present constitution of the association, which bore the same name as the association of 1840, but which had been, he was warranted from the evidence in saying, re-constructed or re-modelled at a subsequent period? They had not been informed by any person who had the evidence in their power, what the objects were of the association in 1840; he did not know them; and when he confessed them to be legal, he made that confession in ignorance. But however that might be, they would find that in the early part of 1843, there was an organisation of the association, and of its affiliated bodies, most carefully and elaborately constructed, and carried on by means which the traversers themselves indicted, in the clearest possible manner, was the object of the parties who assisted in the organisation. The court and the jury had heard of the nature of the association, so far as related to its members and officers, and they had before them, in evidence, the card which was issued to associates who contributed a guinea to the funds. Mr. O'Connell's plan was "give me three millions of repealers, and I will undertake to obtain a repeal of the union." He (the Solicitor General) might here, in passing, observe, that one of the topics relied on by Mr. Barrett's counsel, in his defence, was, that he was not a member of the association. Whether Mr. Barrett was or was not a member, was not, in his opinion, very material to the present indictment, because it was not for being members of the association that the traversers were prosecuted, but for co-operating for certain purposes which, as members of the body or not, they would, in doing so, be guilty of the charge brought against them. But before Mr. Barrett was entitled to credit for the assertion that he was not a member, he (the Solicitor General) would call on the jury to recollect that, by the constitution of the association, every member must be enrolled, and it was, therefore, open to proof that

Mr. Barrett was not a member; and they would not, consequently, take the assertion that he did not belong to the repeal body, as substantiated. The next order of persons belonging to the association were members—that was, persons who were entitled to a different description of card upon collecting contributions to a certain amount. That card they would have before them in the box. It was printed, having a column on either side, and a small map of Ireland in the centre, with two flags, on one of which was a shamrock, and on the other, the rising sun. He begged to call their particular attention to this card, and why it was that these particular species of emblem, and the inscription on it, were selected. They would find also on reference to each side of the card, the names of certain places where battles were fought, in which the Irish were successful, and they would likewise find a reference to certain states in Europe which were independent states, separated kingdoms, with separate governments, and the population of each of which was less than that of Ireland; and then the question was asked—"Why had not Ireland an independent parliament?" And at the foot was printed a resolution, that no body of persons, except the King, Lords, and Commons of Ireland, had a right to make laws for that country—that such a principle was unconstitutional and a grievance. He begged of the jury to recollect that the document to which he had first called their attention, as well as almost every other material piece of evidence that was proved on the part of the crown, had been left wholly untouched by one and all of the counsel for the traversers. A letter to the secretary of the Repeal Association, explanatory of the new card for members, had also been proved in evidence. Now, what did that import? Did it not show, trumpet-tongued, that something was to be effected through the medium of that card?—something not hitherto contemplated by the members of the association?

Mr. Justice Crompton—What is the date of that letter?

The Solicitor General—April the 11th 1843. He did not care that the traversers and their counsel were to spend four more weeks in explanation of their conduct in 1840, '41, and '42. He took it up in 1843, and in reference to their proceedings in that year they would not explain anything, nor did he believe they could do it. This letter, explanatory of the card, was entered upon the minutes of the association, and ordered to be generally circulated; and the cards would not be given to any one who did not procure ten pounds; but one of the objects of the events referred to in the letter was, to excite in the minds of the people of this country, a confidence in their own strength, and ill-will against the stranger and the Saxon, as their English fellow-subjects were termed:—

"The object of the design for that card has been, the concentration of such national emblems, with statistical and historical circumstances, as to render it, as far as possible, a manual of our reasons for demanding legislative independence, that until confuted, and it cannot be so, must make every Irishman who reads it, unless he be a corruptionist, a fool, or a coward, an advocate for the claim of Ireland to be ruled by Irish laws, and Irish laws alone.

"The border, or frame-work of the card, is composed of two pillars, connected, at the top and bottom, by the representation of slabs, suited for inscriptions.

"On the top slab is contained this inscription :---' Resolved unanimously---That a claim of any body of men, other than the King, Lords, and Commons of Ireland, to make laws to bind this kingdom, is unconstitutional, illegal, and a grievance'---Dungannon Volunteers, 15th February, 1782.

"On the bottom of the slab is engraved, 'You may make the union a law ; but you cannot make it binding on conscience'---Saurin's Speech. The force of such an opinion against the validity of the union, as that of the Tory or Orange Attorney General of Ireland for so many years, needs no comment.

"The interior part of the card, or that within the pillars to the right and left, as well as the slabs at the top and bottom, contains the words---' Loyal National Repeal Association of Ireland ;' the word ' Ireland ' being placed over a small geographical representation or map of our own little island, and beneath this, at a due distance, are the words constituting the useful form of admission for the members to the association, when the necessary blanks shall have been filled up. Then, from the pediment of each pillar, slanting upwards towards the engraved map of Ireland, two flag-staffs issue. The flag on the right bears the figure of a shamrock, on one leaf of which is the word ' Catholic,' on the next ' Dissenter,' and on the third ' Protestant ;' and then, running up through the center, the motto, ' *Quis separabit ?* ' or, ' Who shall disunite us ? ' These, I need scarcely observe, are the words which the advocates of Irish provincial debasement, as embodied in the so-called act of union, place about its knavish and unnatural type, a combination of the shamrock with the rose and thistle, three things that would never have been joined had Irishmen endeavoured to act on the principle of ' *Quis Separabit ?* ' in the sense attached to it on the shamrock. The other flag, or that issuing from the pediment of the left column, displays a representation of the ' Sun-burst,' or the ancient royal banner of Ireland, on which the sun was seen partly issuing, and his rays streaming on every side, through the clouds surrounding him. No bad figure, by the way, of the present bright hopes and prospects of our noble country, notwithstanding the darkness of domestic disunion and foreign oppression, which too long dimmed the brilliant light of national prosperity, that, under other circumstances, would have vivified and adorned her.

"Upon the capitals and pediments of the two pillars, on the shafts of which are the above inscriptions, the names and dates are given, of four of the most remarkable victories gained by the Irish ' at home,' where their calumniating English and Anglo-Irish oppressors, in their collections of disgusting lies, mis-called ' histories,' so long thought proper, for sufficiently intelligible motives, to scribble, that Irishmen ' always fought badly.'

"The victories, upon the left hand column, are thus set forth---' Clontarf, 23d April, 1014.'---' Beal-an-atha-buidhe, 10th August, 1598."

"The victories, upon the right-hand column, are---' Benburb, 5th June, 1645,'---' Limerick, 9th to 31st August, 1690.' If he had not this document, and were to take up the card and draw the comments which he had made from its contents, it might be said that he was straining the point ; but there they had the authentic act of the association itself explaining the

document which they caused to be circulated, and directly stating, in so many words, that the object and meaning of the allusion was—moral force, moral combination. Would any man understand the document to mean moral force, and it would be highly preposterous to assert that the document was capable of any but one meaning, and no attempt had been made to explain it, simply, because it could not be explained. He supposed, it would be contended, that the victories referred to were bloodless victories. The victories of public opinion; reason and intellect, over prejudice. The jury would say whether this explanation was satisfactory to them.

"The object of the heathen Danes, who, at this period, determined to make up for the failure of their constant attempts, during about 200 years, to conquer Ireland, bears too strong a resemblance to the subsequent conduct of another country towards us, not to be mentioned. They 'invaded,' says a cotemporary French chronicler, 'with an innumerable fleet, and accompanied by their wives, their children, and their christian captives, whom they reduced to be their slaves, the Island Hibernia, likewise called Irlanda, in order that, the Irish being exterminated, they might colonise that most opulent country for themselves.'"

The words 'pushing a pike' were also quoted in inverted commas; where they were taken from he did not profess to say, but the reference was made to victories gained by the Irish by 'pushing the pike' against the rebels.

**Mr. Whiteside**---The parliamentary rebels.

The Solicitor General said, that if that were the only thing which Mr. Whiteside had to say upon that part of the case, it was little. This machinery (continued the learned gentleman) appears to have been constructed with a view to the proceedings of the Volunteers of 1782; and he thought they would find the real design was concealed under the pretext of founding the steps that were to be adopted in the prosecution of that design upon something like the precedent and legal authority of the association which existed in 1782. The card was embellished with likenesses of Mr. O'Connell, and Mr. Grattan, and Mr. Flood, and two other persons in reference to whom Mr. Whiteside had been peculiarly facetious, (a laugh). He should say that no one was more amused than he was at his allusions; that the subject, taken by itself, afforded fit subject for the comments passed upon it; and that Mr. Whiteside's humour contributed in a great degree to enliven the tedium of those trials. His learned friend had alluded to Ollam Fodla and King Dathy (laughter), but he overlooked Sarsfield, the O'Neills, and Brien Boroihme (laughter). They should recollect that the latter personage was the Irish King and General at the battle of Clontarf, the description of which was contained in Mr. O'Callaghan's letter. They should remember that Sarsfield was an Irish General at another battle, and the same could be said with regard to O'Neill; and he would ask them what were all these allusions to the former victories of Ireland intended for, but to keep before the minds of the people the successful physical struggles in which their ancestors had been engaged? He did not pretend to say what were the duties of those who held these cards, or what they were bound to do by the regulations of the association. He knew not what were the whole of the duties of the repeal wardens, the confidential and

accredited officers of this body; all he knew was, that by means of this association it was found possible to collect together, at the bidding of one person, any number of persons, at any particular place, from any distance almost, no matter how remote. He would then go through the different subjects of the conspiracy, and the several charges in the indictment, according to their chronological order; and he would take the liberty to suggest to the jury upon which of the charges the evidence to which he would call their attention appeared to bear, and to which of the charges it was most particularly applicable. The first part of the evidence to which he would advert was the *Pilot* of the 10th March, 1843, having reference to Mr. Tyler's speech in America, and he should entreat the attention of the jury to the dates of all these transactions, the periods when these cards were issued, the date of the letters and speeches of Mr. O'Connell, and the other documents; and looking at all taken together, it would be for the jury to say whether there was not developed by the entire, a regularly organised plan and scheme of attaining the repeal of the legislative union by the exhibition of physical force—by attempting to create disaffection in the army—by sowing dissension and discontent amongst the different classes of people in this country, and by the other means laid in the indictment. Mr. Tyler, the president's son, made a speech in America, and commented upon the question of repeal in Ireland; amongst other things he said "that he had, through the medium of respected relatives, become acquainted with the character of some of the sons of Ireland, who were driven from their homes by unjust judges and unjust juries in the struggle of Ireland for her independence in 1798, and that they had sought and found an asylum in that land of freedom, America." Mr. Tyler went on to speak about the oppression under which Ireland suffered, and concluded by stating "that the libations of freedom must sometimes be quaffed in blood." Then let the jury see how that speech was commented upon by Mr. Barrett in the *Pilot* of the 10th of March. After some other observations, Mr. Barrett called "the attention of her Majesty's government to the fact, that the son of the President of the United States of America, who took a leading part in the meeting held there, moved the first resolution—that he delivered a bold and statesman-like speech upon the occasion—that the young gentleman was secretary to his father—and that he was, of course, the representative and expounder of his father's views and opinions." Let it be recollected that the President of the United States of America was a repealer of the union, and here was his son and secretary with members of Congress, gathered round the green standard of Ireland and repeal. The United States were studded all over with repeal associations; they were about "to bind themselves together by means of executive bodies which should never be dissolved until Ireland was again restored to her liberty." Was not the Crown warranted therefore, in stating that Mr. Barrett entertained the opinions, and circulated them through the medium of his newspaper, that the United States of America were in such a condition that it would be unsafe for the government, or for the ministry, of England to refuse compliance with the demands of Ireland. Was not that evidence of attempting to intimidate the government? What else could it be: even the traversers' counsel did not attempt to put any other meaning upon it.



The observations then went on to state that "America naturally considered that Ireland would be attached to her interests. Ireland is, after all, an important portion or section of the national family. Napoleon once said, that had he landed his Egyptian army in Ireland, and turned it into a republic, he might have altered the destinies of the whole world"—"curious coincidence!" The same state of things, which, if Napoleon had taken advantage of, by sending his army into Ireland, and thereby alter the destinies of the whole world might occur again! "England might get into war with her neighbours." "Ireland is an important part of the national family," and if England happened to be at war hereafter, persons might be found who, by sending their army into this country, would change the destinies of the world!—That took place on the 19th of March, 1843, and there was an article in the *Nation* entitled, the "Memory of the Dead," upon the 1st of April, and they would be good enough to remark how the actions of the different traversers concurrently agreed on the different subjects. Mr. Barrett in the *Pilot*, Dr. Grey in the *Freeman*, and Mr. Duffy in the *Nation*, all coincided in their different spheres. These lines commence with, "Who fears to speak of '98? Who blushes at the name?" This they were told that there is no meaning in, and that it was only an imitation of the Jacobite songs, from which no harm could have been expected. Mr. Whiteside went over so far as to say that it could not be said even to allude to 1798, as '98 was all that was mentioned; and it might as well be the year '98 in the first century, 1698, or 1398, as 1798—but it would be for the jury to judge what was the object of its publication, and what '98 it was intended to allude to. If he (the Solicitor General) was to give Mr. Fitzgibbon the full benefit of his commentaries on the facts in question, saying that it was a mere effusion indicating a commiseration at the unhappy fate of the men who died in that year—now, supposing that it was capable of such a construction—judging from the first part—who could think so when he read another verse:—

"And we will pray that from their clay  
That many an Irish heart will start,  
Of true men, like you, men,  
To act so brave a part."

Was that commiseration for the unhappy fate of the misguided men, or was it likely to encourage the men of the present day to follow their example? How was that rebellion of 1798, which was so eloquently denounced by Mr. O'Connell, characterised by this effusion? As "the struggle of right against might," and this was in the publication of Mr. Duffy, one of the traversers. The next document he would refer to was the *Freeman's Journal* of the 4th of April, 1843, which contained the proceedings of a meeting upon the previous day, when it would be seen that Mr. Ray read a letter from General Clooney, dated on the 2nd of April, in which he remitted money, and the names of members, associates, &c., which, upon the motion of Mr. O'Connell, was ordered to be inserted on the minutes. Then, on the 20th of the same month, there appeared an article in the *Nation*, headed—"Something is coming;" and it would be remembered that one of the allegations of the traversers was, that their object was to effect a lawful measure—to procure from the legislature, by peaceable and

constitutional means, the repeal of the union. Parliament was then sitting, and for a long time after, and what was it that was coming? Was it the discussion of repeal in the houses of parliament they meant? He (the Solicitor General) was sure that the jury would not think so, but that they would judge fairly of the intended meaning, and draw their conclusion. The learned gentleman read several extracts from the article in question, which have been already published, and proceeded to say. Now, they would observe, that up to this time no declaration had been made in the House of Commons by Sir Robert Peel, on the question of repeal, and there was no pretence, therefore, for saying that this publication could be accounted for, or justified by any expression of opinion in England. He did not quarrel with the use of figurative or strong language in a document of this kind; they were not prosecuting for figurative language, it was for expressions about which there could be no mistake—they were proceeding. The Solicitor General then continued to read the article from the *Nation* of the 29th April, and commented upon it as he went on. He observed that the counsel for Mr. Duffy would fain persuade the jury that such an article as that formed no portion of the combination, and had asked why was not the publisher prosecuted if it were illegal. But, if the crown had done so, they would never have been able to arrive at the proof they had now obtained of the existence of the combination. He then was proceeding to read an article from the same paper, entitled "Our Nationality," when the Chief Justice asked for the first article to be handed to him. The Solicitor General handed up the copy from which he had read it, and apologised for its containing marginal observations. He then proceeded to read the article, commenting upon it as he read it. The damning effect of that document was felt by Mr. Whiteside. They recollected that it was arranged on both sides during this trial, that the articles in the newspapers, relied upon by the crown, should be read first, and that the articles in the same papers which might be considered to be favourable to the case of the traversers, should be read next. This was done for convenience. The regular and proper course would have been to have delayed the reading of those articles considered favourable to the defendants, until the statement of their case. And now he had to find fault with the manner in which the document he had just read was sought to be got rid of. What was the course pursued with regard to it? This; Mr. Whiteside called for the production and reading of another document in the same paper. What was it? A love song (laughter.) Now, it certainly struck him with astonishment when he saw such an attempt to get rid of the document which had been read for the crown, by a love song. He dismissed that subject now, and came to another. Amongst the principal instruments by which the purposes of those parties were to be accomplished, when the repeal wardens were appointed, certain duties were marked out for them. He did not profess to be able to tell the jury all the duties which those persons had to discharge. He was only able to call their attention to certain instructions given to them on their appointment, and which the crown had succeeded in procuring evidence of. The learned gentleman then read extracts from a pamphlet entitled "Duties of a Repeal Warden," stating that they should appoint collectors of one farthing a week, a penny a month, and a shilling a year, taking care to make every person favourable to repeal, understand that it was only he who contributed to the

to put any such construction upon it, as that he meant to silence the expression of public opinion. Again he says—"We may be silent, but it will be the silence of gunpowder; we shall crouch, but it will be the crouch of the tiger, ready to take the sure, but terrible spring, and clutch our independence." They will remember the dramatic effect with which Mr. Whiteside dwelt upon that passage; but what was the meaning of it? It was this—we are silent for the present, but it is the silence of determined preparation which, when the proper time arrives, will enable us "to take the sure but terrible spring, and clutch the independence of Ireland." This was figurative language, but it was sufficiently intelligible. "The moment has passed for vain regrets, and to suppose that you would neglect your opportunity would be to suppose that you would reject that which Providence in its mercy has presented to you." Had that reference to any expected act of parliament to repeal the union? No, the opportunity referred to was that to be afforded by the organisation of the people to be called forth at the proper time. He would then proceed to the next meeting, which was held at Longford on the 28th of May. Two witnesses had been examined with respect to the repeal meeting at Longford on the 28th of May, and to a few passages in their evidence he would take leave to direct the attention of the jury. These witnesses' names were Johnson and Maguire. Johnson deposed that he was a head constable, and that he was stationed at Sligo in the month of May last; that he was at the Longford meeting, which was attended by fifty thousand persons---that he saw large bodies of horsemen, who were usually led on by priests, and that he saw Mr. O'Connell there, and also Mr. Steele, who distributed amongst the crowd bundles of papers which were said to be copies of Mr. O'Connell's speeches. He also deposed that Mr. O'Connell delivered a speech there, in the course of which he made a very significant pause. Witness was likewise asked, was there any appearance of tumult at the meeting, and his reply was a very sensible one. He said, "no, there was not, for they were not going to fight with one another." They were all of the same way of thinking. He said that the people appeared perfectly willing to do anything that Mr. O'Connell bid them, and that they were so numerous and united, that the police dare not face them. The second witness was a constable of the name of Maguire, who deposed that he heard Mr. O'Connell make a speech, at the conclusion of which he told the people to go home quietly to their friends, and that when he wanted them again, he would let them know the day. That expression was used at almost all the meetings, and it was a most significant one. An attempt had been made to cast aspersions on the veracity of Maguire, on the ground, forsooth, that he was anxious to be promoted in the service; but he (the Solicitor General) wanted to know what right had the counsel at the other side to cast imputations on the crown witnesses, and accuse them of perjury, when they had not brought upon the table a single witness to falsify the crown evidence. He would read for the jury the notes taken of Mr. O'Connell's speech at Longford---(the learned counsel read the notes in question):—"Let them but attack us," said Mr. O'Connell, "and then"---then came the pause---and thereby the meaning of that pause was too plain for any one to doubt. It was at Longford that, according to this witness, the arbitration

system was first broached. The witness further deposed that Mr. O'Connell told the people to go home quietly, and that when he wanted them again he would let them know the day. This took place at a meeting in the early part of May. There was, on the same day, a dinner at Longford, and at that dinner Mr. O'Connell made a speech, part of which, and only a part, had been commented upon on the part of the traversers, or even read by them. It appeared that Lord Beaumont, a Roman Catholic Peer, had expressed his dissatisfaction at the course that was pursued in this country with regard to the agitation of the repeal of the union; and expressed his determination not to countenance it, but if necessary, to vote that the government be armed with additional power in any step they might find it necessary to make. That was his proposition; at this dinner to which he referred, a speech was made, on the introduction of Lord Beaumont's name by Mr. O'Connell, what Mr. Whiteside said was merely a scolding match between Mr. O'Connell and Lord Beaumont. Mr. O'Connell said, "I ask you, mongrel heartless Beaumont, do you wish it to go to the people of Ireland that you would support the English minister if he was mad enough to make war upon the Catholics of Ireland." Why, Lord Beaumont never expressed any intention of supporting the minister in making war on the Catholics of Ireland, but that, if it was necessary—if the government found the common law of the land were ineffectual he would support any measure that would give them additional aid, and not to make any war upon the Catholics of Ireland. Then he (Mr. O'Connell) went on to say, "suppose some Irish Paddy had escaped from the slaughter, and going over to London, had met some of his former neighbours, they would ask him the news; but what would be the tidings he would have to bring them? He should say to one—'Jemmy, your father has been killed'? To another—'Tom, your brother has been shot.' A third would ask him—'but my sister Eleanor, does she live?' He would say—'Your sister is not dead.' 'But is my father alive?' 'No your sister watched his corpse, but she is herself worse than dead---she is now a sad maniac roaming through the wilds, and, like the wretched maniac of song, warnig her sex against the wretched soldiery of Britain.' Yes, my Lord Beaumont, the brother of Eleanor O'Moore would be near your castle; he would hear that you were one of the men who hallooed on the destroyers of the peace of his home. Oh, you would be very safe that evening! Would you not, Lord Beaumont?" This was the interchange of scurrilous language between Lord Beaumont and Mr. O'Connell. He (the Solicitor General) contended that it was a direct incentive to the people of this country, if occasion should arrive. Mr. O'Connell went on to say---"The manufactories in your neighbourhood would be safe too! and proud London herself, in which you would flatter yourself with the hope of being secure, would be also safe when the account of the ruin of Ireland would arrive! No! one blaze of powerful fire would reach through her vast extent; and, in the destruction of England, would vindicate the country of the maddened and persecuted Irishman who would have reached her shore." Mr. O'Connell might preach as long as he pleased the doctrine of obedience to the law—he might profess to inculcate on his hearers the sentiment of charity and good will, but he could never neutralise that speech—he could never qualify it, nor explain it—he never could say that it had any other meaning than that which

necessarily pressed upon the mind of every body who read it, that when the time arrived this country would fire the manufactories of England. He charged the traversers with seeking to intimidate the people of England--charged them with inciting the people of Ireland--had he not proof of both in that very speech? Even suppose Mr. O'Connell did not really mean to suggest to the people to fire the manufactories, what would be the necessary effect of his speech? Would it not be to give cause for apprehension to the people of England? He was far from saying that Mr. O'Connell ever intended such a proceeding as that. In the *Freeman's Journal* of the 31st of May, 1843, there was a report of the proceedings of the association of the previous day, and Mr. O'Connell appeared to have corrected the report of the speech he made at Longford. He denied having called the soldiers of Great Britain a "a ruffian soldiery," because he knew that any such statement, if it were made, would be false; and with regard to the serjeants especially, he said "that if justice were done to them there was not one of them that would not be raised to the rank of an officer." In another speech, at a later period of the proceedings, at the same meeting, Mr. O'Connell stated that he had undoubted authority for telling the people of Ireland, that the declaration to maintain the union made by Sir Robert Peel, in the House of Commons, was unauthorised by her Majesty, and that the Queen had reproached Sir R. Peel for having used her name for such a purpose without her sanction. Now, what object had Mr. O'Connell in making such a statement, but that of endeavouring to make the people believe that the Queen was favorable to the repeal of the union, and was only prevented from granting it by the hostility of the people of England and of the British ministry to Ireland? They would observe that Mr. O'Connell corrected the report of his speech about the ruffian soldiery. It was perfectly plain, therefore, that he read the report, and that he did not retract any other portions of it. The learned counsel then read speeches of Mr. O'Connell at the meeting and dinner at Drogheda, and also a speech of Mr. Barrett. He then adverted to a speech delivered by Mr. Steele at the Drogheda dinner, in which he said that, "He would solicit of his august friend, Mr. O'Connell, to appoint him to the leadership of whatever enterprise was most desperate, and that "he was ready to share the dangers of the Irish people" if they were driven to extremities by the Cromwells of England.

Mr. Steele (In a low voice across the table)---If driven to resistance.

The Solicitor General said he respected the courage and manliness of Mr. Steele. He never disguised his sentiments and feelings upon the occasions on which he spoke. He boldly and frankly put forward his opinions. He knew him many years, and he respected his character. The meaning of his speech was, that if any occasion might arise in which Mr. O'Connell would think it necessary to call upon him for his services, he would give them.

Mr. Steele---Assuredly.

The Solicitor General continued to say, that he admitted that Mr. Steele would not wantonly put himself at the head of any movement to disturb the public peace or injure a human being; but it was impossible that he could be omitted from the indictment, having taken so conspicuous a part in, and been so much identified with, the whole of the movement. They found that the evidence applicable to others was equally applicable here, therefore he

could not be omitted from the indictment. He read the speech to show this; he had no personal disrespect towards him.

Mr. Steele—I am quite sure of it, Mr. Solicitor.

The Solicitor General said he read the speech merely to show that Mr. Steele was at the meeting. The next matter to which he would refer was to the article headed "The Morality of War," in the *Nation*. Nothing could be stronger than the language used in that article; yet, Mr. Duffy's counsel had not even attempted an explanation of what right Mr. Duffy had, or upon what principle he felt himself called upon to instruct the military as to the nature of their duties, and the proper manner of performing them. The learned Solicitor General then said that the next topic upon which he intended to comment was of such very great importance, and the evidence applicable to it was so extensive, that it would be inconvenient for him to commence it at that late hour (five o'clock).

The court was then adjourned.

## TWENTY-FIRST DAY.

The court sat this day at the usual hour, and the traversers and jurors having answered to their names,

The Solicitor General resumed—He said that since he had addressed the court yesterday, he had looked into the case of the *King v. Hunt*, and found that it supported his argument; that the charge in the indictment for creating disaffection and discontent, and creating ill-will and hatred amongst the Queen's subjects, was well laid. Mr. Henn commented upon that, and endeavoured to show that it was an authority in favour of the traversers; but it was not. In that case the defendants were convicted on the fourth count, which charged them with having met together in a large number—to wit, 60,000—for the purpose of exciting discontent and disaffection, and for the purpose of exciting the subjects to hatred of the government, &c., which were the words of the present indictment. The defendants in that case were convicted, because they had assembled for the illegal purpose of creating discontent and hatred to the government, and the illegal purpose made the meeting itself illegal. The application for a new trial was merely upon the grounds that evidence had been improperly rejected, which, if admitted, would rebut the evidence given to sustain the fourth count. And it was quite evident, from the judgment of Chief Justice Abbott given upon this application, that the court held the charge contained in the fourth count to be sufficient. He next called the attention of the jury to the meeting held in Kilkenny, on the 8th of June; the proceedings at which had been read by the crown from the *Pilot* of the 12th of June, 1843. That paper contained a long description of the numbers who attended, and of the banners, flags, music, and so forth; and also a report of Mr. O'Connell's speech, which he would read for the jury. Mr. O'Connell said that the repeal wardens were the men by whom he hoped to obtain repeal. There was no more honourable station than theirs; and went on to say that the Irish people were threatened with civil war by the ministers. The allusion to repeal was originally made so far back as 1834,

by the members of the late administration. He stated to them yesterday what appeared to him to be the fair construction to be put upon Sir Robert Peel's declaration on the 9th of May, in the House of Commons. He was asked whether it was the intention of the government to introduce any measure into parliament for the purpose of putting a stop to this agitation, and he in reply expressed the reluctance of government to apply to parliament for any additional power until it should be first ascertained whether, in point of law, the conduct of the persons concerned in this agitation was criminally cognisable at common law. His reply was not a threat of civil war, for the purpose of putting down the agitation, as Mr. O'Connell called it—

Mr. Shiel here rose and said he expressed, yesterday, his great reluctance to interrupt the Solicitor General in his address to the jury, and that reluctance was augmented by his recollection that none of the counsel on the traversers' side had been interrupted in their addresses by the crown. He believed, however, that it was not unusual to allow counsel for prisoners or traversers to interrupt the counsel for the crown, when it was considered by the traversers' counsel that the crown were stating anything not in evidence. Counsel for the crown should be especially cautious when it was to be recollected that they had the last word. Now, he should say, that his learned friend had not only yesterday, but at present had adverted to topics which were entirely illegal, and not in evidence.

The Solicitor General said he did not think he had, during his address, adverted to any illegal topics.

Mr. Justice Crampton---You said something about a speech in 1834,

Mr. Shiel---Yes, my lord. I must beg to interrupt for a little longer--once only, and not again. I must admit that great latitude ought to be allowed to counsel in their addresses to the jury, and indeed I admit great latitude was allowed to myself by the crown; but I think the Solicitor General has no right to advert to matters expressed by Sir Robert Peel in parliament, and I think that yesterday he had no right to tell the jury that unless they found a verdict for the crown, a coercion bill would be introduced.

Mr. Justice Crampton---Except so far as the newspapers that had been read in evidence, that speech should not be made the subject of observation.

Mr. Shiel---Yes, my lord; the Solicitor General does not take that speech as it appears in the commentaries made upon it by any of the traversers. He has taken it as spoken in parliament, and from that speech he drew a minacious inference for the jury.

The Solicitor General said he had endeavoured, as far as possible, to abstain from making observations that he would not think quite warranted by what appeared in evidence. What he intended to say yesterday, with respect to that speech of Sir Robert Peel, was this :---Mr. O'Connell, in some of his speeches having attempted to justify an appeal to physical force by the supposition that a declaration of something like civil war had been made by Sir Robert Peel in parliament, his (the Solicitor General's) intention was to show the jury that there was no well-grounded reason to apprehend such a consequence from Sir Robert Peel's reply, and that it did not warrant such language as that used by Mr. O'Connell. Nothing

certainly was further from his intention than to hold out anything like a minacious threat to the jury ; and if he did, he begged in the most unqualified manner to withdraw it.

After some further discussion on the subject,

The Solicitor General proceeded with his address.—He read further extracts from Mr. O'Connell's speech at Kilkenny, in which he spoke of the serjeants in the British army. He said he read yesterday an article from the *Nation* on the "Morality of War," He should have occasion to advert by-and-by to another article, but they would find each of the traversers pursuing the common object in a different way—one of those being an attempt to tamper with the army, or at least to lead the people of this country to believe that the army would be passive in any outbreak. The learned gentleman continued to read from the speech extracts as follows :—"Oh, what a waste of physical force have we not with us to-day ? Oh, but it will be said that they are not disciplined ; but if you will tell them what to do, they will be all found disciplined in an hour." Now, when they heard so much said about the concentration of moral force, and the display of public opinion, he must be allowed to call their attention to the language of Mr. O'Connell, which had either the intent that the people should understand that they were to be called on for something, or else that it should be understood in England that such was the state of discipline and organisation amongst the masses of this country, that it would not be safe to refuse the granting of the repeal of the union. The learned gentleman read another extract from the speech, stating—"If they do not think that they will obey their repeal wardens as if they were called serjeants and captains, they are mistaken." Now, he was told that those parts of speeches had no allusion to anything like physical force. The Solicitor General then proceeded to call the attention of the jury to the meeting at Mallow, and read the evidence given by head-constable Jolly, as to the meeting, and Mr. O'Connell's and other gentlemen's speeches. He continued to read the speech of Mr. O'Connell at Mallow, and quoted the passage where it was said the serjeants in the army were as respectable a class of men as any in society, but were the worst treated. If they had a repeal of the union, the farmers would be gentlemen, and the gentlemen members of parliament. Mr. O'Connell asked them would they not come again when he wanted them ; and they replied yes. He wanted them to come armed—but it was with a repeal card he wished them to be armed. And thus (continued the Solicitor General) Mr. O'Connell always qualified his expressions when speaking. Jolly said he did not take any notes of what Mr. O'Connell said, but he stated that the expressions struck him as strange at the time. That witness was not contradicted on his oath ; and it was easy to contradict him if he swore what was false ; but the other side did not produce any reporter to contradict him, although the newspapers must have had their reporters there on the occasion. He went on to read the speech of Mr. O'Connell, and cited the celebrated passage of—"They may trample on me, but it shall be on my dead body, and not the living man." What, he (the Solicitor General) would ask, had that passage to say to moral force, or what was the meaning of it ? It was telling the people that, if a necessity did arise for physical force, he would be ready to join them. Whatever meaning



was to be taken from the words, it was for the jury, not for him, to say; but they were not to judge of their meaning by any sophistical construction put on them by eight or nine gentlemen of the bar; it was the manner in which those expressions were understood by the people to whom they were addressed, and for whom they were intended. One of the modes by which the conspiracy was carried on was, to keep up the recollection of former alleged oppressions, massacres, and misfortunes in the history of this country, whether real or fabulous. It was a part of the conspiracy, he would say, to keep such before the minds of the people, in order to create disaffection and dissatisfaction in the minds of the people. [He then alluded to the passage in Mr. O'Connell's speech, where he referred to the murder of the Wexford ladies, and said that was done for the purpose of exciting bitter hostility in the minds of the Irish against their English fellow-subjects.] He would next approach a part of the case that would require a great deal of attention, and he had purposely postponed this portion of his address, with the view of taking the case in the order of the meetings. There was a meeting at Donnybrook, at which Mr. O'Connell attended and made a speech, in which he descanted at great length on what he called the evil effects of the union, and held out to the people the advantage that would accrue to them from having it repealed. [He then proceeded to read Mr. O'Connell's speech, and concluded with the passage, where he said the tradesmen would not be looking for work then, as they would be all retained in the first instance with a *£l.* note]—(laughter.) He (the Solicitor General) said it might excite laughter, but it was by such means that excited feelings were kept up in the minds of the people, and a regular system of delusion practised on them; it was by such means, and by mis-stating the expressions of great men, that the differences between the people were kept up. He would then call their attention to another part of that speech, where Mr. O'Connell said, "If England offered him ample justice, he would tell her a story about a fool in Kerry, where there were not many of them: The fool found a hen hatching, and he turned her off the nest, and commenced sucking the eggs; when he had one of them in his mouth, he heard a chicken squeak. Oh, oh, says he, my lad, you're too late—(a laugh.) He (Mr. O'Connell) would tell England that they knew how to suck an egg as well as the Kerry fool—it was too late." Thus, (said the Solicitor General,) is eternal hostility proclaimed against England. Again he says, "They say we shall have to get the English parliament to pass an act for the repeal; but listen to me. I am going to tell you something that will interest you. I was told that we would not get the emancipation act; that no bill would be passed through the house; and the heir apparent to the throne took the trouble of swearing an oath to the effect, but he was obliged to swallow that oath, and we were emancipated. In order to get the repeal, it is not necessary to pass an act through the English parliament at all. The first men of the day, and the ablest constitutional lawyers---Saurin, Bushe, and Plunkett said, that the Irish parliament had no right to pass the union statute." Whether they did say so or not, he (the Solicitor General) would have to observe upon at another part of his address; but such was the doctrine laid down by Mr. O'Connell, that a reference to the legislature, as now constituted, in order to repeal the act of union, was

unnecessary. He then said that the Irish parliament was not dead, but slumbered; that, by virtue of the royal prerogative, the Queen could issue writs from Chancery, and the Irish people would obey them, and by that means their parliament would be re-created without any reference to the Saxon authority. The people at all those meetings had been instructed that the Queen was favourable to this measure, and Mr. O'Connell laid it down that she might, by her own authority, effect it. That brought him to the consideration of the proposition, whether it was consistent with the law of the land to say that the Queen or Sovereign could reconstruct a separate parliament for Ireland, by the mere exercise of the royal prerogative, in issuing writs to such places in Ireland as her Majesty might think proper. When his learned friend the Attorney General, in his very luminous statement, referred to this subject, he threw out a challenge to the able counsel on the other side, and he asked how far they were prepared to establish or support that proposition on the part of their clients. He did not exactly understand, up to that moment, that they meant at all to insist upon the legality of it, or to what extent they meant to rely upon such an argument. He thought he should have very little difficulty in demonstrating to their lordships, who, he took it for granted, would so direct the jury as to the law, that such a doctrine was a total perversion of the law, unsupported by any principle or authority, wholly untenable, and the result of which would be to render void all the acts of parliament which have been passed since the union. Mr. O'Connell's remedy for that was to pass a bill in the new parliament giving validity to all those acts. It was not exactly stated that the union was void in point of law; and some extracts were read from Mr. O'Connell's speeches to show that it was not declared invalid as a law, but that it was not binding upon conscience, or what was called constitutional principle. He did not exactly know what was understood by constitutional principle in reference to that. It was argued as a precedent, in support of that view, that King James issued writs for boroughs to the number of forty in one day, and that the same power still existed in the crown. The occasion upon which those writs were issued was simply this:—There was no division of Ireland at the time into shires or counties; and James issued a number of writs to certain boroughs in Ireland, in order that they might be duly represented in the legislature. Sir John Davis, in his Tract, page 304, says that his Majesty had well and prudently caused those boroughs to be represented in the general legislature. However, the state of things was wholly altered when the union took place, because the representation of the whole kingdom was then based upon the statute of the union; and it enacted that there should be one and the same legislature for the whole united kingdom of Great Britain and Ireland. That was specifically enacted by the third article of the union, and it was provided that the hundred commoners to sit on the part of Ireland should be sixty-four for the counties and thirty-six for the cities and boroughs therein enumerated. It was wholly out of the question that it was within the prerogative of the crown to issue writs for the representation of other boroughs or counties besides those set out in that act.

Judge Crampton—I don't understand that the proposition was that

the crown should issue writs for members to serve in the British parliament; but in an Irish parliament.

Solicitor General—Just so. It would be giving what he called a *non obstante* power in the crown. By one of the articles of the act of union, it was expressly enacted, that no meeting should be anywhere held in Ireland for the purpose of electing a representative for the imperial or any other parliament, otherwise than was expressly ordered by the provisions of that statute. Mr. O'Connell gave an air of veracity and feasibility to his monstrous doctrine about the Queen's competency to issue new writs, by telling the people that the Irish parliament was not dead, but only slept, and that it was still in constitutional existence, notwithstanding that it had not of recent years been called together. That was Mr. O'Connell's unheard-of proposition. Mr. Whiteside, no doubt, had gone the length of saying that such was not the meaning of Mr. O'Connell, for that, although he declared that the act was void in constitutional principle, he never went so far as to assert that it was not binding as a law. But his previous declaration, that it was void in point of constitutional principle, was amply sufficient to convey to the mind of the unthinking populace the idea that it need not be obeyed, and by a reference to one of the documents which had been given in evidence by the traversers themselves, the best possible clue might be found to Mr. O'Connell's meaning---the meaning which he desired should be conveyed to the minds of his followers. The jury would bear in mind, that amongst the documents which had, yesterday, been given in evidence, was one which purported to be the address of the National Association to the people of Ireland, upon its first establishment. In that publication he found Mr. O'Connell's doctrine with respect to the union laid down in the following terms:—"Besides all this, it is clear that the Irish parliament had no right to vote away their country's independence." He then proceeded to quote certain expressions attributed to Lord Plunkett and Mr. Saurin, and, having dwelt upon this topic at some length, he then continued to observe---"Such are the means by which the union was carried, and thus it is that there is an inherent defect in point of law and conscience in that measure," What would be said of this? Was this, or was it not a deliberate assertion that, by reason of an inherent want of legal power or capacity in the respective legislatures, and particularly in the Irish legislature, to pass the act of union, that statute was utterly null and void in point of law and conscience? Having laid down this monstrous proposition Mr. O'Connell then, in page 53 of his address, proceeded to argue that her Majesty had full right and authority to issue her writs any day for the assembling of the Irish parliament; and that when the members, under these writs or summonses, had met together, they would have no difficulty in making laws, with the consent of the Queen, and they could subsequently, at any moment, pass an act sanctioning their own appointment and vesting in themselves full legislative power and authority. In page 25, he endeavoured to demonstrate the nationality of his doctrines by referring to passages in the past history of these countries, which, he maintained, furnished precedents for a similar course of proceeding. Thus it was that the delusion was rendered in all respects complete; and thus the people were taught to place implicit reliance in assertions which, in point of fact, were without the slightest foundation in law or truth. He

(the Solicitor General) had observed to the jury, that one of the objects of these parties was to persuade the people of Ireland that the Queen had the power and the wish to further their ends by having the union in effect repealed. In order, as he thought, to render his case impregnable, he had relied upon certain expressions, which were not used by lawyers as such, nor by judges as such, but which had been uttered by certain eminent men in their capacity of parliamentary representatives, and at a period when the union was not yet the law of the land, but was still under discussion as a measure which it was contemplated to introduce; and these sentiments uttered incidentally by members of parliament, while the union was yet in embryo, were deliberately held up as the formal declarations of lawyers and judges, that the union, after it had passed, was null and void. He (the Solicitor General) had no hesitation in expressing it as his deliberate opinion, that such conduct on the part of any man was illegal and delusive, and that nothing could be more monstrous than to quote the expressions of members of parliament before a proposed act had become the law of the land, with a view to shew that, in point of law, conscience, and constitutional principle, such statute could be regarded as void, after it had passed both houses of legislature, and received the royal assent. This was the inference which the people were permitted to draw from Mr. O'Connell's quotations. But he (the Solicitor General) was at a loss to think how this doctrine of Mr. O'Connell could be reconciled with other portions of the proceedings. The pretended objects of the repeal meetings was to petition the imperial legislature for the repeal of an act of parliament; and the fact of their sending such petition, necessarily involved the inference that they regarded the imperial parliament as a properly-instituted legislative body, and acknowledged their power and authority to grant them redress. But if the Queen had the right attributed to her by Mr. O'Connell, of issuing writs, where was the necessity of petitioning the imperial parliament at all? And did not the petitioning of that parliament necessarily imply that it was a legislative body which had full and entire authority to pass, in the first instance, the law which they were now called upon to rescind? There was surely a strange contrariety in this, and it mattered not what explanation might be offered, he again repeated that it was nothing less than seditious and illegal for any man to tell the Queen's subjects that any law of the realm was not binding on their consciences. If the Irish parliament had no right to pass the union act, it followed, as a natural consequence, that every law that had passed since 1800 was null and void. The Emancipation Act was necessarily null and void, and all the improvements which had been introduced into the criminal code, since the passing of the union, must also necessarily be without the slightest foundation in point of constitutional law. This delusion was one of the means whereby it was intended to carry out the objects of the conspiracy. In the same address of the National Association it was actually stated that the then Lord Chancellor (Lord Plunkett)---the pamphlet was printed in 1840---had laid it down that the union was not binding on the conscience; for, that the Irish legislature had no right so pass the measure, and the people were permitted to draw the not unnatural inference, that Lord Plunkett had uttered this opinion as Chancellor, and after the union had passed. To suppose anything of the kind was litellous in the highest degree to the

character of that great man. He might have uttered the words before the union had passed, and similar words might also have been uttered before the union by Mr. Saurin, but no such opinion had ever been uttered since the passing of the union, either by Lord Plunkett or Mr. Saurin. He (the Solicitor General) did not know whether the counsel at the other side would have any objection that he should cite words uttered by one of those eminent gentlemen.

Mr. Fitzgibbon---You cannot do so, Mr. Solicitor. It is not evidence at all.

The Solicitor General admitted that it was not evidence, and would not press his point; but he now begged leave to draw the attention of the jury to Mr. O'Connell's speech at Tullamoore. In that speech Mr. O'Connell said to the people, "I can collect you here at any time, if I want you." Now, it was possible that these words might have different meanings—it was for the jury to say what they were. Whether Mr. O'Connell intended actually to call these people together when the occasion should arise, or whether he intended to have it understood in England, and over the country, that they could be brought together any moment he thought fit, and therefore to create the coercion and intimidation which they (the crown) contended he had in contemplation; and it was the latter one that would support the view the indictment took of it. It was a question as to how it was understood by the people to whom it was addressed; and here was a very strong instance of the manner in which they understood this question. When Mr. O'Connell spoke about collecting them together at any time he wanted them, a voice exclaimed—"The sooner you want us the better." Now, how did the person who made use of that expression understand Mr. O'Connell? Was it not plainly an acknowledgment that they were ready at any time to do anything he thought fit? And again, Mr. O'Connell said—"But if it should be necessary for you to remain in the field till blood shall flow, a general never stood by such soldiers. I have the bravest, the most moral people in the world to deal with; but you must combine, there must be no treachery amongst you." You must combine! In a subsequent part of the speech he explained what he meant by that. He told them that a friend of his was coming down from Dublin, and he saw a number of men working in a field. One man was by himself, and left to work solitary and alone. His friend feared that they belonged to some secret society; and, addressing them, asked them why they refused to let that poor fellow work with them; and the answer was, "that fellow refused to become a repealer." These men were combined for the cause of repeal; that was to say---any person that did not join them was to be put in a Botany Bay of his own. He (the Solicitor General) ventured, on the previous day, to observe that he thought there was evidence that persons had been induced to join the repeal by coercion, and he would ask them now had they not abundant evidence of it? It was coercion of the worst kind, and this was called freedom of discussion. He protested he did think that he was perfectly warranted in saying, that if ever anything was calculated to prevent freedom of discussion, it was the machinery and proceedings of this association, and the mode in which they sought to achieve their objects. With regard to the Tullamoore meeting, there was evidence of a person of the name of Stewart, and other

residents, with regard to which he felt it necessary to make a few observations. They would recollect that Stewart stated that among the banners which appeared at the meeting, was one upon an arch, on which was inscribed, "Ireland and her parliament; or, the world in a blaze." The counsel for the traversers, when adverting to this said, "Oh, we will show that this was wholly without the knowledge of Mr. O'Connell, and, so far from approving of it, he directed it to be taken down, and Mr. Steele actually had it taken down." Now, a person named Morgan was called by the traversers, who certainly proved that he either took it down, or assisted in the taking of it down, by the direction of Mr. Steele; but on his cross-examination he was asked who put up the arch? Where it was erected? and he said it was erected opposite the house of a painter of the name of Deane, who painted it, and put it up. Why did he put it up? He could not tell. Who desired him to do it? He could not tell.

Mr. Justice Crampton said there was no evidence that Deane painted or put up the arch.

Mr. Fitzgibbon said the only evidence on that head was, that it was suspended from an empty house.

Chief Justice—Not an empty house.

The Solicitor General said that what he had taken down was this—witness saw an arch at Deane's house---that Mr. Steele came to Deane to take it down. Deane asked by whose authority he came to him, and Mr. Steele answered, by Mr. O'Connell's, who was displeased at having it up, and thereupon it was taken down. Therefore he (the Solicitor General) contended that Deane was the person who had authority to take it down. When Morgan was on his cross-examination, he stated that that very Deane came to Dublin from Tullamore with him the night before, and was in town at present. Where was Deane? Had he been produced he could have told them by whose authority and at whose expense it was put up---who he (Deane) was, and whether he was connected with the Repeal Association.

Mr. Fitzgibbon said they had no connexion whatever with Deane, and anything respecting him could in no manner affect their case.

The Solicitor General insisted upon his right to enter at length on this portion of the case, and scarcely any observations were too strong respecting the keeping back of evidence so material. Why was not Deane produced as a witness? His non-production formed the strongest ground for his (the Solicitor General's) conjecture, that if he had been put on the table he might have given distinct evidence why the arch was erected. They had proved the removal of it, but they had not satisfactorily accounted for the erecting of it. He came now to the meeting at Baltinglass, which was held on the 6th of August last, and in reference to the proceedings they had some testimony of great importance. A person of the name of Godfrey, who was in the constabulary, described the processions and the appearance of the meeting, and stated that he heard one man who was in the crowd say, "that the shouts were frightening the pigeons;" and another observed, "ay, and the Protestants, too." Mr. O'Connell, in his address to the meeting, said that they must get repeal, they could not be refused it, because they were all quiet and sober men. Another witness, Henry Twiss, said he heard the people in the crowd say

that Ireland was trampled on, but she would be so no longer. He also heard the expression, "The time is nearer than you think; let us but wait with patience for a few months." Taylor, another witness, also said that he heard Mr. O'Connell at the same meeting say "he was able to get repeal, if the people would stand by him." He also asked if they would come again if he wanted them? and they said they would, and that they would fight for him. There was a full report of the proceedings of this meeting in the *Freeman's Journal* of the 7th of August. In giving a description of the scene, they said "that the presence of upwards of one thousand horsemen added a military dignity to it." "There were (said the same newspaper) at least 150,000 persons present." And Mr. O'Connell, in the course of his address to them, observed—"That as good breasts were covered by the frieze jackets before him as ever was covered by scarlet or blue cloth." What was meant by such language as that could readily be inferred by the jury. At the dinner which subsequently took place, Mr. O'Connell was reported to have said, "We will not enter into any compromise of any kind, as we feel that Ireland wants all her sons to stand by her at the present moment. If any other or better leader than myself cannot be found, I will stand by the people, and the people will stand by me." Did Mr. O'Connell, by that, mean that he would act as the leader of the people in reference to the presenting of petitions to parliament for the repeal of the union; or did he mean that he would act as their leader in the field? The speech then alluded to the discipline of the British army, and observed that "government would appoint a great many of the serjeants to commissions for fear they would 'pronounce.'" He would next call the attention of the jury to the publication of the 12th of August, in the *Nation* newspaper. After adverting to the position of the repeal question at the time, the writer went on to say, "Let us see what has been done;" and then observed, in reference to Ireland, that the Irish had "a home marked apart by the ocean;" and Ireland possessed "limitless resources;" and was "destined to be admirable and strong amongst the nations of the earth." This was the description given by Mr. Duffy, or his correspondent, of the state of the repeal question, and the motives which actuated those who were engaged to go on with it. The article continued to say that the repeal rent, which formerly reached only 50*l.* or 100*l.* then averaged 1,500*l.* weekly, and that the Irish people would make any sacrifice to achieve their independence. This, to be sure, was the peaceful, moral manifestation of the will of the people. The article next observed that "the numbers at the meetings were unequalled by any population," and that the severities endured by the people in their long marches were never before voluntarily borne, save in the excitement of war; that the organisation necessary to produce such order, and the absence of riot and vice made each of those meetings a strange and formidable event. In another part of the article were found, "the people know their policy too well" for an outbreak. This was the morality inculcated. It was most desirable that the people should not violate the peace, not because the law prohibited it, but because it was contrary to the policy. "But," continued the article, "such oppression might ultimately produce war." It was said that the act of one person, or the declaration of one person, was only to be visited upon himself, and that it was a cruel thing to visit upon Dr. Gady

the act of Mr. O'Connell, or upon Mr. O'Connell the publications of Dr. Gray. They would see from that part of the case that Mr. Duffy was perfectly aware of what was doing in reference to the arbitration courts, and the three hundred trustees of the Irish fund. (The learned counsel read a passage from the *Nation* to support his argument). Mr. Duffy, in his paper, gave a definition of what was understood by the Irish being a nation. It was desirable to understand exactly what was meant by the expression "Ireland being a nation." That phrase was frequently used in the course of the speeches which were made by the counsel for the traversers. Mr. Duffy gave a definition of what was understood by the Irish being a nation—namely, that they had they machinery of one, "public opinion, taxation, justice, legislation." "Justice," meaning the arbitration courts; "legislation," "the dictates of the three hundred trustees who will give law to the Irish people." This was not his language, it was that of the traversers. Again, the *Nation* said that Grattan, though he succeeded, had none of the machinery of a government in his hands, and contrasted his "want of preparation" with that of the Irish nation. The organisation meant to be conveyed was well understood by the people, as was evidenced by their expression; "the sooner you want us the better."

The Lord Chief Justice here called for the paper containing the article.

The Solicitor General protested that it appeared to him the counsel for the crown were not calling upon the jury to do anything but to believe the language used by the traversers, and to act upon their professed opinions when they arrived at the conclusion of their guilt upon the charge preferred against them. What did that paper state?—and it contained the opinions of the traversers—it stated what the duties of the repeal wardens were; that those duties were not complete until the people were regularly drilled throughout the country, and that the time for an outbreak had not arrived until then—that an outbreak would be premature until the people were drilled! that foreign states had not been applied to in the way of regular diplomatic connexion, but that their sympathies had been enlisted for Ireland, and that the man must be a bold minister of England who would dare go to war with a nation like Ireland, which had the sympathy of Europe and America, but particularly of France. He next approached a part of the case which bore more especially upon one of the traversers, for whom Mr. Moore appeared as counsel, the Rev. Mr. Tierney. Mr. Moore represented this gentleman to be the clergyman of the parish of Clontibret; and he said he was a most respectable gentleman, enjoying the good opinion of his friends and neighbours. He (the Solicitor General) was perfectly sure that that representation was well-founded, he did not mean to question its accuracy for one moment; and it was with very great regret he must say, that he found himself as counsel against a gentleman of Mr. Tierney's sacred character and profession. He also admitted that the circumstances in the case as affecting the Rev. Mr. Tierney, were in some degree distinguishable from the other traversers; for the only occasions upon which he was found mixed up with the other traversers, was at the meeting at Clontibret, on the 15th of August, and at the association in Dublin, on the 3d of October, 1843: so far a distinction might be made,



but whether that distinction would lead to a more favourable view of the Rev. Mr. Tierney's case, was not for him (the Solicitor General) to say. The jury would remember that an officer of constabulary, named M'Cann, had been examined, and very strong observations certainly had been made upon the character and veracity of this witness. [The Solicitor General then read the evidence of this witness, particularly that part of it detailing a conversation between himself and the Rev. Mr. Tierney, with respect to the conduct of the Spanish soldiery in deserting their government.] Very strong and undeserved comments were made upon M'Cann's evidence, and his veracity was actually assailed by Mr. Moore, upon the ground that it was impossible such a conversation as he said he had with the Rev. Mr. Tierney could have taken place at all, or that the Rev. Mr. Tierney could have so expressed himself, because it was not known in Ireland at the time the witness said he had that conversation, that the movement amongst the Spanish soldiers had taken place. It did not, said Mr. Moore, occur until the 11th of June, and it was not known in Ireland until long after the time this conversation was described as having taken place. That was a very strong observation, and it was made, manifestly, for the purpose of showing that the witness was not entitled to credit upon his oath. Now, if Mr. Moore, before he made that observation, had taken the trouble to look at the *Morning Chronicle* of the 1st of June, he would find that allusion had been made to the very circumstance.

Mr. Hatchell objected to the right of the crown counsel to comment upon documents not in evidence. The Solicitor General seemed as if he was going into a rebutting case.

Chief Justice—If what the Solicitor General states is correct, Mr. Moore had no right to make the observation he had made.

Mr. Hatchell---The question is, whether I am right in what I am submitting to the Court. The trial, I suppose, must take the same course as any other.

The Chief Justice---Certainly.

Mr. Hatchell---It is said that Mr. Moore has committed an error relating to matter spoken of by one of the witnesses, and it is now sought to show Mr. Moore's error by referring to a document of which no proof whatever has been given. I don't think that it has ever yet occurred in any case that if a counsel for the defendant happened to make a statement in the course of his speech, and that he do not afterwards sustain that evidence, the counsel in reply should be at liberty to advert to other documents than those in evidence for the purpose of stating that an error had been committed.

The Chief Justice---Probably you are quite right ; but the result is the same, for Mr. Moore's observations fall to the ground, not having proved what he said ; and the Solicitor General has brought forward that non-production as evidence to establish his case.

The Solicitor General---I would not have gone so far but that Mr. Moore deviated from the regular course, which was, that when counsel stated a fact, he did so with reference to proof which he intended to give ; but on this occasion it would be remembered that what he said was, if you take the trouble of looking into the newspapers on the 11th of June, you will find that this statement could not be true ; in fact, he did not profess to give it in evidence.

Judge Crampton---And if you, Mr. Solicitor General, told the jury to look to those papers, they would find that that assertion was not founded on fact.

The Solicitor General proceeded to say that Mr. Moore had made an assertion which was unfounded and untrue. He did not think he went too far in saying untrue, when the counsel for the traversers charged a witness produced by the crown of perjury, when they had not proved the newspapers they alluded to, or gave any other evidence to prove that what he had sworn was false. It was for the sake of the witness that he was so particular on this point; and having, as he was sure the jury would consider, fully sustained his evidence, he contended that it coupled the Rev. Mr. Tierney with the conspiracy. The Clontibret meeting took place on the 15th of August, and upon the same day there was another held in a distant part of the country—one which was the most striking and remarkable in the whole case. He (the Solicitor General) alluded to the Tara meeting; but before he directed their attention to certain passages in the principal speech, which appeared to him to develop the still further progress of the conspiracy, he would refer to some matters which occurred at the meeting. They would all recollect that Captain Despard, who was examined, attended there not as a magistrate but as a private individual, in which capacity he had a conversation, which he (the Solicitor-General) would relate; and he would also state the very extraordinary mode resorted to for the purpose of contradicting or destroying his evidence. That gentleman mentioned that he was resident magistrate for many years in the county of Meath, and came from Trim on the morning of the day of the meeting, where a large body of persons had assembled, who subsequently marched to Tara, in ranks of four deep, with bands, wands, &c., under the control of persons whom he believed to be repeal wardens. This gentleman calculated that there were one hundred thousand men on the hill, and being a military man, he was therefore capable of forming a just conclusion as to numbers. He also said that there were 700 horsemen; he counted nineteen bands, and when the meeting was over, there was a sudden movement upon which the people separated as if by arrangement, in bodies about 20,000, and went away. Captain Despard then detailed a most remarkable conversation which he would call their attention to. He said he met a man standing by a ditch, looking at the crowd passing, who said to him—"O'Connell wants men of bone and sinew, like me, who are able to do the work for him." "Is it," said the Captain, "such men as those frieze-coated men passing?" "Ay," said he, "just so." He then went on to tell the witness that he had come from Shelmalier, and stated that 2,000 men came with him, who were joined by 3,000 more from Kildare, and after the procession had passed, he said—"You did not take off your hat to Mr. O'Connell?" "No," replied the Captain, "I did not." The countryman then observed—"You don't belong to our party;" when he said—"I belong to no party." "Ay," said he, "I knew by the curl of your lip, that you did not. Was it not impossible, he (the Solicitor General) would ask, not to be struck with such testimony? Accordingly there was no kind of device not resorted to to get rid of the evidence. One counsel said—"it is all a hoax that was played upon the captain, and I hope to be able to produce the man who had the conversation."

However, he was not produced; and what did another suggest? "Oh!" said Mr. Fitzgibbon, "Captain Despard is not corroborated---Captain Westenra, or Mr. Walker, are not produced; and what may have been the real state of the case? May not this have been a puppet, placed behind the ditch, in order to hold a conversation with Captain Despard, that he might swear to it at the trial?" He insinuated that, in fact, Captain Westenra and Mr. Walker concocted the scheme, and that this man was nothing less than some English assassin, brought over expressly to act a part, and was not a Wexford-man at all. It happened, however, most unfortunately for such an hypothesis, that the fact was distinctly sworn to by the Captain, and fully corroborated in the *Pilot* newspaper of the 16th of August, 1843. In the account of the meeting at Tara, given in that paper, it was said that the world never before witnessed such a meeting; and after stating, on the authority of a military friend, that there were, according to his estimate, a million of persons assembled on the plains of Tara, the article proceeded to describe what it termed the most peculiar scene of all at the Croppies' grave, where the brave men of Wexford said a prayer, and dropped a tear for their relatives, who lying beneath the sod, had known a soldier's risk without a soldier's hope. So much for the story of an Englishman who was brought over, and the plot between Mr. Walker and Captain Despard. After the admission in this paper, had they the shadow of a doubt that the conversation took place? Did not all the particulars of this account show this---that the men came there as men of bone and sinew? We now come to the speeches and proceedings at that meeting---and he would here take the opportunity of calling their attention to a new act of the drama. Hitherto the different meetings were held in the several localities; not for any particular reason assigned, or for any associations connected with those localities; but now they would find that the movers of this conspiracy, to keep up the excitement of the people until the time arrived, conceived the idea of holding meetings at places connected with battles, or massacres, or other events calculated to create feelings of ill-will and hostility among the people; and in furtherance of this object, the meeting was held at Tara. Mr. O'Connell commenced his speech on that occasion, by announcing that it was an undoubted fact, they were then assembled at Tara of the Kings. The learned gentleman then read the speech, in which Mr. O'Connell protested in the face of Ireland, in the face of God---protested that the foul and injurious union was not binding on conscience. It was void in principle and in constitutional law. He here announced that all the magistrates deprived of their commissions would be appointed to settle the disputes of the people; and that arbitration courts would be formed, to which he recommended the people to go. The Solicitor General having concluded his comments upon Mr. O'Connell's speech at the meeting, next read an extract from his speech at the banquet, and observed, that he (the Solicitor General) could understand how a ministry, or a government, might be induced by the legitimate expression of public feeling, to concede useful measures, but he could not understand the words "bone and sinew," which had been used in the speech, except as intended to compel concessions by intimidation. Mr. O'Connell had said, that whilst he lived there should be no outbreak. That sentence was pregnant with meaning. He had not ventured to say it would not occur after his

death. Dr. Grey (the Solicitor General added) had made a speech at the same meeting. He read the speech at full length, emphasising strongly particular passages. [When he had concluded, the Chief Justice requested the paper to be handed to him.] The Solicitor General then went on to say that there were several meetings of the association proved; and one in particular upon the 25th of July, at which the payment of several sums of money were proved to have been made; but he would not trouble the jury by reading the proceedings, particularly as he wished to reserve his strength to enable him to comment upon such documents as might require explanation. He would next come to the transactions at a meeting of the association, on the 22d of August. Mr. Jackson, a witness for the crown, proved that he had attended there, and that several documents were handed to him by the secretary; and amongst others the plan for the renewed action of the Irish parliament. Mr. O'Connell introduced it with some observations, which he would read. Mr. O'Connell said "the union was binding, not because in principle or law it was valid; on the contrary, it is void of force and invalid. But we submit to it because we don't choose to be men of blood and strife. We submit to it *de facto*, but it is wrong *de jure*." He thought it was now prudent to resist the union. He was of that opinion at present, and he would get seven millions more to help him to resist it. He pledged himself to bring about a repeal of the union legally and peaceably. [The learned gentleman then read the copy of "The plan for the renewed action of the Irish parliament."] In the first place it declared that the Irish people recognised and acknowledged her Majesty Queen Victoria, her heirs and successors as Monarchs of Ireland, and that they acknowledged and would maintain all the rights and privileges of the peers of Ireland. Thirdly, that they insisted upon the restoration of the Irish House of Commons, and that it should be constituted of 300 members, elected by the people. The jury would observe that this was not a petition to parliament to repeal the union, but a demand from the Irish people, insisting upon the restoration of the Irish House of Commons. The learned gentleman continued to read from the document further extracts, stating that the only binding power of the union is the strength of English domination according to Mr. Saurin. That they also agreed with him that to resist the union was an obligation, and that accordingly they would resist the union by all legal and constitutional means. He (the Solicitor General) did not know what was meant by resisting the union. He thought that the addition which had been given to it, "by all legal and constitutional means," was a contradiction in terms. The plan then went on to state the increased number of members to be given to the several counties in Ireland, formed on the population returns, and the qualifications for voters, which were stated to be six month's residence in the counties; with the addition in towns for married men, that they should prove a residence of twelve months, whether householders or not. Then with regard to the monarch or a regent, if a regent should become necessary, it was provided that the monarch *de facto* in England, should be at all times the monarch *de jure* in Ireland; and that regent *de facto* in England should be the regent *de jure* in Ireland. The learned gentleman then went on to

comment on the plan, and to say, that whatever the Irish people or the Irish parliament might agree to at first, it could not, by any means, be held, that it was certain they would always hold the same opinions. He held in his hand a pamphlet, dated the 22nd of August, 1843; it was entitled "A Plan for the Renewed Action of the Irish Parliament;" it was printed by Brown, of Nassau-street, for the association, and paid for by that body. There were a great number of copies of it struck off, and circulated by the association.

Chief Justice---When?

Solicitor General---On the 22nd of August, 1843.

Chief Justice---I thought you said September.

Solicitor General---Oh, no, my lord. In reading that document to the meeting a question was put.

The court here adjourned for a few moments.

When their lordships returned to court,

The Solicitor General resumed his address---He said that, he proposed next to refer to the proceedings at the Repeal Association on the 23rd of August, the day which followed that on which the plan for the renewed action of the Irish parliament was for the first time introduced. The proceedings of that day would bring them to the subject of the arbitration courts; the plan, for the establishing of which, they would find had been brought forward and adopted, for the first time, at that meeting. The person most active in the preparation of that plan, and most energetic in carrying it into practical operation, was the traverser, Dr. Grey. They would remember that the subject had been previously broached by Mr. O'Connell; that, at the meeting of the 23rd of August, a report was presented by Dr. Grey, on the part of a certain committee, to whom this matter of arbitration had been referred; and he must beg leave to request their particular attention to the terms in which this report was introduced, as clearly illustrating and explaining the motives which actuated the traversers in the institution of these arbitration courts. And now, upon this subject, he (the Solicitor General) wished to be clearly understood. He, in the fullest degree, admitted the perfect legality of any man or body of men referring their private disputes or differences to the arbitration of parties indifferently selected. The law did not prohibit it---nay, to a certain degree, it recommended and assisted the reference of matters in dispute to arbitrators. It was, perhaps, a duty in the abstract not to go to law, if we could fairly avoid it; and the Society of Friends, a most respectable class, acted upon this principle, for they referred their differences to arbitration. It was quite a work of supererogation, therefore, to go to any trouble in order to assert the legality of arbitration in the abstract, for it was a thing that nobody ever denied; but the question to be solved in the present case was this, with what object, intent, or purport had the arbitration system been adopted by the traversers? Their attention was directed to the document which he now held in his hand. It would be found that the arbitration system adopted by the Repeal Association was not a reference by private individuals of their differences to arbitrators, indifferently selected by themselves, but was rather an usurpation of the prerogatives of the crown by the repealers, who instituted and appointed courts of their own, in order to supersede the tribunals by law established, and to bring

them into contempt and disrepute. It was impossible to read the document he held in his hand dispassionately, without coming to the conclusion that such was the real nature and intention of the plan. It appeared, that at a certain period of last year, the Lord Chancellor thought fit to remove from the commission of the peace certain gentlemen who took part in repeal demonstrations. No sooner was it known that these gentlemen had ceased to exercise their magisterial functions, than a plan was submitted by the Repeal Association for the establishment of other tribunals, to be presided over by the very persons who had been dismissed by the Chancellor. No sooner had the Lord Chancellor's supersedeas been issued than a plan was introduced for reinstating the dismissed magistrates in the functions of judges, and, he might say, of coercing the persons who were under the control of the association to abide in all their differences by the decision of those gentlemen, and not to go before the legitimate magistrates at all. The first sentence in the report fully established this fact, and showed the true motives, in this respect, of the repeal leaders. The first instance was this, or to this effect—"that the committee were of opinion, that inasmuch as many of the magistrates had been dismissed from the commission of the peace, because of their attachment to the cause of legislative independence, no time should be lost in carrying into practical effect the principles of arbitration as approved of by the unanimous vote of the association. In order, therefore, to secure the perfect and harmonious working of such a system, your committee recommend that a standing committee be immediately formed to arrange the necessary details, prepare the necessary forms, and superintend the practical working of the system after it shall have been put into operation." That was the judicial system. Now, it was ridiculous to compare such a proceeding to the proceedings of the Ouzel Galley, or the ordinary modes of arbitration. Here it was announced that the reason for the establishment of those arbitration courts was the dismissal of the magistracy: it was announced that a system, the practical working of which the committee was to superintend, was to be agreed upon, and observe how it was that system was to be formed—"Being further of opinion that the system of arbitration should be universally applied as the circumstances of each locality would admit, your committee recommend for that purpose the counties to be appointed into districts, and that three or more arbitrators be recommended for each district—the number to be determined by the extent of population, and such other local circumstances as may seem to bear distinctly thereon. In defining those districts, your committee would suggest that advantage be taken of the divisions at present established for the purpose of the petty sessions courts, and recommend that those districts be adopted, inasmuch as the peasantry are in general familiarised thereto. Your committee suggest that the dismissed magistrates, and such repeal justices as have resigned, be, in the first instance, recommended as arbitrators in their respective districts." This was exactly flying in the face of what had been done by the government; and the committee, it appeared by the report, further recommended—"that a dismissed magistrate, or one who had resigned, if present, be in all cases chosen as chairman of the courts of arbitration." Selected by whom? By the association. The report further stated—"that the committee were

strongly impressed with the conviction, that in selecting persons to be entrusted with such high and important functions, as those that will necessarily devolve upon the arbitrators, the utmost diligence should be used to procure persons not only of high character and local influence, but who also possessed the full confidence of the several classes upon whose cases they may have to arbitrate." Procured by whom? By the association, or the agents of the association, before there was any difference at all between the parties; and it was further suggested in the report—"that the repeal wardens in each district do recommend to the association such persons as were best qualified to act as arbitrators—that the awards were to be final and conclusive, and a proper entry was to be made in the minute book of the association,"---that is to say, the records of those tribunals were to be kept amongst the archives of the association. The learned Solicitor then referred to the document issued by the association, under which each arbitrator acts, and to the summons, or what he would call the process, which, he said, differed widely from all arbitration summonses that were issued, inasmuch as it was not signed by the arbitrators, but by the party litigant, calling on his adversary to come before the court. The meeting at which that report was agreed to was held on the 23d day of August, in the year 1843, and on the very next day the Queen's speech was delivered at the close of the session of parliament. The jury would recollect that up to that time not a single petition for repeal had been presented to the House of Commons, nor had any one petition for that purpose been proved to have been signed, although resolutions to petition were agreed to in various parts of the country. On the 26th of August, only two days after the prorogation, they would find an article in Mr. Duffy's paper, the *Nation*, entitled, "The crisis is upon us." In that article were passages to the following effect:---"Our union with England was not only unjust and iniquitous, but an illegal and invalid act." "Resistance to the union has become a duty on the part of every Irishman; and this, the 43rd year of its existance, if the people have work and energy, may be the year of restored independence." How (continued the Solicitor General) was it proposed that the 43rd should be "the year of restored independence," when at the moment the article in question appeared, parliament had been prorogued? After detailing the manner in which Mr. O'Connell had aroused the Irish people from their apathy to look for their rights, the article proceeded:---"Then goes on the shout of the millions at Tara, which gives proof that the people are aroused, and that they fling back the responsibility upon their leaders. They are ready and willing to be led---led where? and led whither? begins to be asked." That language was too plain and too significant for the jury to require comment upon it from him. He would next advert to a meeting of the association, at which very remarkable speeches were delivered on the 28th of August. At that meeting were present Mr. O'Connell, Mr. Steele, Mr. John O'Connell, Mr. Ray, and Dr. Gray. Mr. O'Connell, in his speech, said he was ready to make any alterations that were thought fit in his plan for the renewed action of the Irish parliament. He proposed that a repeal warden should be appointed to each district, to ascertain the number of householders, the number of married men, and the number of repealers. The district repeal wardens were to be a kind of

returning officers, whose duty it would be to communicate with the association. They were, however, not to have the character of delegates. If this plan were found to work well in Arklow and Ardee, they would go and apply it to the other towns in Ireland *seriatim*. He then said they would proceed by degrees until Ireland was so organised that the wisest and safest course for the British minister would be to yield, and not think of refusing that which a nation had a right to demand. He (the Solicitor General) directed attention to the fact, that the object with reference to the army was never lost sight of. He had read for the jury an article in the *Nation* of the 1st of June, 1843, entitled "the Morality of War." Mr. Barrett also gave his view on the same subject in the *Pilot* of the 29th of August, 1843, in an article entitled "The Duty of a Soldier," which was only another expression for "The Morality of War." [The learned Solicitor General then read the article headed "The Duty of a Soldier," in the *Pilot* of the 29th of August, as also the Rev. Mr. Power's letter, which was published in the *Nation* newspaper.] A meeting of the Repeal Association took place on the 29th August, immediately following the publication of that letter, to which it was necessary to call attention. Mr. Jackson, they would recollect, deposed that he was present at that meeting, when Mr. O'Connell, Mr. John O'Connell, and Mr. Ray attended, and when the former of those gentlemen, in alluding to the years 1826 and 1843, said that there were twenty-six years of despotism passed by; that he renounced the Whigs as "base, bloody, and brutal;" and further that the magisterial bench had been cleared of every friend of Ireland and the people. He also said that if the union was not dissolved there would be a sanguinary war, and although not perhaps in his time, it would be a legacy to those who came after him and perhaps it might not be an unadvisable result. That was the evidence upon which much observation had been made, for it was in fact denied as having been said at all, so much so that the traversers undertook to produce witnesses to prove that it had not, and thus to contradict Mr. Jackson. He positively swore to the use of the expressions; he was not controverted; and in a moment he (the Solicitor General) would show that he was not resting upon that testimony alone, for Mr. Ross was also present at the meeting, and proved the short-hand notes which he had taken then. He said that Mr. O'Connell proclaimed the Queen's speech, because it was the speech of the ministers, and was "base, brutal, and bloody." Now, he (the Solicitor General) did not mean to dispute that the ministers were responsible for her Majesty's speech, because she could do no wrong; but he did not understand that sort of loyalty or constitutional doctrine which said, that what had been delivered in person by the Sovereign from the throne was not the expression of her own sentiments, as entertained at the time; or, in other words—that she was nothing more than playing the hypocrite, and delivering sentiments which, in reality, she did not entertain. And when he adverted to some passages, they would see that it was intended by this language to say, that it was actually delivered against her will—that she was forced to speak it. Mr. O'Connell then asked "was there anything in this speech to retard them in their exertions, or to prevent their obtaining a repeal?" And he would read from Mr. Ross's notes a corroboration of what Mr. Jackson said. He



stated that Mr. O'Connell said that "Ireland was so circumstanced that if the union was not dissolved by legal and constitutional means, an outbreak would take place; and although it would not occur in his life-time, the result would be a sanguinary struggle for separation, and God forbid that he should say that it would be an unjustifiable means to be used against the union. Was Mr. Jackson to be charged with misrepresentation, which was fully corroborated in the only passage which was materially disputed?"

Mr. Fitzgibbon---The word unadvisable was the word that was controverted in Mr. Jackson's testimony.

The Solicitor General---Very well; still he was not contradicted.

The Chief Justice---Read that part of Mr. Ross's evidence again.

The Solicitor General again read the evidence of Mr. Ross. When he came to the words ascribed to Mr. O'Connell---"As long as I live there shall be no separation; I bequeath to those that follow me their own course of proceeding"---he observed, that he thought that was a tolerably good exposition by Mr. O'Connell himself of the actual state of the Irish people. When the learned gentleman came to the part of Mr. O'Connell's speech, in which he attributed to the Chief Justice words to the effect, that the law did everything for the landlord and nothing for the tenant, he designated the statement as a monstrous perversion of truth. The learned gentleman then referred to a case in the 5th vol. of the Law and Equity Reports, page 307, in which the Chief Justice was stated to have said, that the particular statute then in question was made for the benefit of the landlord, and observed that his lordship never meant to convey what was attributed to him by Mr. O'Connell. The learned gentleman then adverted to a publication which appeared in the *Pilot* of the 6th of September, entitled "The Irish in the English Army." The gentlemen of the jury would understand, when this article was read, what was meant by the duties of a soldier, and the morality of war; and yet, all this has been passed over in silence by the counsel for the traversers. They should recollect that in the early part of his address, he had called their attention to the device upon the repeal card, which, it was proved, had been suggested by Mr. O'Callaghan, who was referred to in the document he was about to read. [The Solicitor General having read the article]---

The Chief Justice required it to be sent up to the bench.

The Solicitor General then proceeded to say, the jury should observe that there was no signature attached to the article, in fact it purported to be an original one, and there could scarcely be a doubt but that it was intended to seduce and influence the military from the performance of their duty, or else to persuade the people that the military would not act against them, if called upon to do so. Mr. Jackson had proved that he was present at the meeting of the association when Mr. O'Connell announced his intention of being present at Loughrea: and he proved certain expressions to be used by that gentleman in reference to the Queen, which were rather strange, as coming from one of a party who claimed the possession of such peculiar loyalty. He would next read for them Mr. O'Connell's speech at Loughrea. [The Solicitor General then commenced reading the speech, and commented upon it as he went on.] Let the jury recollect that Mr. O'Connell addressed them on his own behalf for a day. He was the

person who used this language, and yet he never adverted to any of those passages which he (the Solicitor General) had been recalling to their recollection. He never condescended to tell the jury or the public what he meant to convey by these passages. He declaimed at great length on the injurious effects of the union, and went into long statistical details which had nothing to do with the case; but he never did profess either to deny or to justify one single sentence of any one of those speeches which he (the Solicitor General) had read for them. There were plenty of references made to his speeches prior to 1843. The learned gentleman read a passage from the speech as follows:—"Let England be involved in any predicament with any of the states in Europe; let any country on the face of the earth attack her, and in twenty-four hours we shall have our own parliament." Up to this time there was something like the appearance of constitutional proceeding preserved. Those multitudinous meetings were really called for purposes which the crown said were masqued and disguised under the pretext of petitioning parliament. He now come to an era of the history of this association, at which he thought the disguise was thrown off altogether. On the 13th of September a meeting took place at the association at which Mr. O'Connell expressed his opinion. He alluded to an address which had been prepared, and which he afterwards moved should be printed on a large sheet, and posted in all the large towns in the empire. "In London, Bath, Bristol, and biggoted Liverpool, it should be placarded." He said further--"We will send copies of this to the British colonies and have them placarded wherever the British crown had power. It is our proclamation. It is no haughty proclamation of independence. It is a description of our grievance for which we can get no redress. If the English government had the good sense to-morrow to do what we want, it might take away from me some unwilling repealers, but it would not take the persons from me who know by experience that we never trusted England that we were not deceived, but who are now too sagacious to suffer ourselves to be deluded by any other measure offered to us except the one measure we seek for, the repeal of the union." In other words, that no matter how willing the legislature might be to comply with our prayers or petitions, it would not be of any use.

Mr. Justice Crampton--What are you reading from.

The Solicitor General—I have been reading from Mr. Ross's note of the 13th day of September. Here is an address to all the subjects of her Majesty, in every part of her dominions. He proceeded to read the address of the Loyal National Repeal Association to the subjects of the British crown, and commented on it generally as he proceeded. He said the object of one sentence is to create in the minds of the Irish people an impression, that the only object of the English was to oppress the people of this country. One expression was, that "The spirit of oppression, which always existed, was not as yet much mitigated." That was, in effect, stating that the same feelings which existed centuries ago still subsist to the present moment. Then follows a long address from Mr. O'Connell on the alleged grievances of Ireland from the union, and the means of redressing them, and it concludes by stating that they (the people) must rely solely on themselves for redress, as they need not expect any from the English

or Scotch, as they had too great an antipathy to this country. The jury would recollect that that document was placarded and posted by Mr. O'Connell's direction in several districts. That address was moved at a meeting of the association on the 13th of September, and was adopted as the act of the association. He would next come to the meeting which took place at Clifden on the 17th of September, 1843; and he thought that they would find that the mask was thrown off there more than at any former meeting; for as the conspiracy progressed, disguise was gradually thrown off. He would read Mr. O'Connell's speech from the note of Mr. Charles Ross. He proceeded to do so, and said that was the first time when Mr. O'Connell made use of the word cavalry. He said he was delighted to see the cavalry; and that was the first time he made use of the word. He thought that language more undisguised could not be made use of. He (Mr. O'Connell) said—"If we are attacked, woe to them who shall attack us; for then it will be war to the knife—if they are wise they will not attack us." He (the Solicitor General) did not think there could be a more minacious threat than that used. At that meeting he said he was about to establish arbitration courts throughout the country, and that he would take all the power out of the hands of the government as regarded courts of law. It was thrown out previously, that the object of these arbitration courts was merely to prevent the people going to the petty sessions court; but there the disguise was thrown off, and he would now ask the jury to act upon the confessions and admissions of the parties themselves, for they could not believe that these courts had any other object but that which Mr. O'Connell, on this occasion, plainly stated in the presence of thousands of people. He goes on—"If it was necessary for me to call out your force in battle, there is not a man of you who would not come again on the day I asked him. Force and violence are not to be used; if the time for using them should come, there is one here that will tell you that the time has come." Cheers followed that announcement. He then says—"I have more cavalry here than I had at any former meeting---hardy hacks they are; and instead of the cavalry of England following them; I think they would rather be going the other way. I have more men of a fighting age than any other country can boast of. We will reserve our force for defence, but let them attack us if they dare." There again he threw out, in so many words, what his object was. He next said that 300 gentlemen would find their way to Dublin by one chance or another, and enter into negotiations with the minister. They would show the minister how they could paralyse the state by planting more potatoes, and leaving the harvest to rot on the fields; and that they had physical power enough, and would use it if they were attacked. Such were the legal, and peaceable, and constitutional means by which this consummation was to be achieved. Three hundred gentlemen, who, perhaps, if their proceeding had not been arrested by these prosecutions, would be now in Dublin---would enter into negotiations with the British minister, and if he did not comply with the demands of this Loyal National Repeal Association, by repealing the union, they would let the harvest rot in the ground---they would have the state paralysed, and the physical force of the country called out to resist any attempt that might be made to put them down. Mr. O'Connell, in his Clifden speech, observed

that his monster meetings were nearly over, but that before he had done with them he would make a vast demonstration of moral combination to the English government, and that by that time the people's discipline would be complete. He concluded by boasting that the people obeyed him more implicitly than they ever obeyed any Lord Lieutenant; and the whole tenor of his speech was such as to convey, in his (the Solicitor General's) opinion, a pretty significant allusion to physical force. The question between the crown and the traversers consisted in this, that the crown alledged against the traversers, that they had in view, an appeal to physical force, whereas the traversers alledged that they intended to appeal to moral demonstration. On the 25th of September, soon after Mr. O'Connell had made his significant allusion, an article appeared in the *Pilot* of the 25th of September, entitled "The Army, the Government, and the People," and that article contained eloquent evidence of the true intention of government. That article fully explained the whole intent of the maxim, "Whoever commits a crime, gives strength to the enemy." He would read it for them. [The learned gentleman read the article in question from the *Pilot*.] They would see from that that there was a systematic plan for having it represented that there were in the army of England such a number of Irishmen who might, by their countrymen be calculated upon to be neutral when an emergency arose, and to have an effect upon the army itself, or that portion of it which was constituted of Irishmen. In the same paper there was another article, the tendency of which was quite obvious, and pointed most distinctly to something like a military movement, or it referred to the death of General Jackson. It said, "Who was he? No American, no Saxon," Observe they never heard the word English used. "No, he was one of the fiery-eyed Celts, an Irishman." The article then went on to say, that although he had exhibited such generalship at New Orleans, he was only a lawyer. Now, was that anything else than that Mr. O'Connell had pledged himself to put himself at the head of any movement, and that he would be successful through he was only a lawyer, as Jackson had been?

Chief Justice—Show me that schedule, Mr. Solicitor.

The Solicitor General handed up the document, and said that the two articles to which he had referred were contained in it. He would now come to the Mullaghinst meeting—certainly a very important one in the history of these proceedings. It was intended to be a gathering of the people of Leinster, and placards announcing it were printed at the expense of the association. [The learned gentleman then read the advertisement calling the meeting, which was headed "Men of Leinster, to Mullaghinst!"] It was perfectly clear from this document that this meeting was got up by the leaders of the association, and that it was intended to be what was called a demonstration of that province in favour of repeal. A person of the name of Healy had been produced, who proved that he attended that meeting, and he stated that papers were circulated there—sold for money, and that he bought one of them, which paper was produced. They would recollect what a struggle was made to exclude this piece of evidence, and very fairly made by the counsel for the traversers, and strong assertions had been made as to the crown not having proved that this document emanated from the association in the same manner as

they proved the publications of books, pamphlets, and other documents. The answer to that was this---their object in proving this was not so much to show it was concocted at the association, as to show this, that it was circulated at the meeting which the association called. [The learned gentleman then read the document which was sold at the Mullaghmast meeting by a number of hawkers.] It was a "History of the Slaughter." If there were no other evidence than the document which he had read, it would be sufficient to convince the jury that the intention was to excite in the minds of the Irish people the utmost hostility against England. The learned gentleman stated that he could not close that evening, and requested to be allowed to postpone his address till to-morrow.

The Chief Justice asked the Solicitor General whether he could tell if he would finish his address to-morrow?

The Solicitor General replied that he did not think he would require to occupy the Court for more than two hours.

The Court adjourned at a quarter to five o'clock.

---

#### TWENTY-SECOND DAY.

The judges having taken their seats on the bench at the usual hour, and the Clerk of the Crown having called over the names of the traversers and jury,

The Solicitor General resumed his address. He said, from the nature and contents of the documents which he read to the jury, at the close of yesterday, they could be at no loss to know what sort of feelings were intended to be excited in the minds of the people assembled at Mullaghmast towards their fellow-subjects in England. He should proceed now to call their attention to some of the transactions and to some of the speeches that were made upon that occasion, and he thought they would see that they were in perfect accordance with the sentiments intended to be excited by that document which was so circulated. A person of the name of Healy was examined as a witness, and proved some particulars with respect to this meeting at Mullaghmast, to which he must invite the attention of the jury. His (Healy's) conception of the numbers that were there was, that they were not short of a hundred thousand persons. He said there were about fifty bands; that there were banners; that the bands wore what he called a sort of uniform; that there were persons leading the people, and appearing to take the command of them as officers. He was asked whether the dresses which the bands appeared to wear were not such as had been usually worn by the temperance bands. His answer to that was, that the uniform they wore was not such as in the commencement of the temperance movement those bands were distinguished by; that a new kind of dress had been used for the occasion; and he (the Solicitor General) thought the jury would have arrived already at this conclusion, that as this conspiracy progressed the approach to the actual display of military force became closer and closer. He says the people came in hurraing with what he called branches of trees in their hands; he saw inscriptions on their banners, and he proceeded to describe them; one was "Mullaghmast and its

Martyrs," another was "A Voice from the Grave," and that was on a banner which was placed behind where the chairman sat at dinner. There was another inscription with

"No more shall Saxon butchery give blood gout for repast,

The dog is roused, and treachery expelled from Mullaghmast."

The witness also described some other particulars of that meeting. He (the Solicitor General) would then proceed to the speeches which were made at that meeting. The speeches to which he alluded had been deposed to by Mr. Hughes, and he could not let the opportunity pass without alluding to some epithets which had been used in reference to Mr. Hughes. He was called "a government spy and informer." Mr. Hughes came to this country openly and fairly, in the capacity of a person who was regularly employed by the government to report the proceedings of what took place at their meetings. He openly avowed himself in that character; was introduced here in that capacity, and was admitted as such to the meetings. In all this he acted openly and fairly; and he did not understand how such epithets could be applied to Mr. Hughes, I mean those epithets of government spy and informer.

Judge Crampton—It was, I believe, to Mr. Ross they were applied, and not to Mr. Hughes.

Mr. Fitzgibbon—I don't think any rational man living could apply such epithets to Mr. Hughes, at least we did not.

Attorney General—The Solicitor General is quite right in what he is stating---quite correct.

The Solicitor General said he pledged himself he was correct in what he was stating, and that the epithets were applied to Mr. Hughes, why or wherefore he knew not. Mr. Hughes was a gentleman who, up to that time, never had the least imputation cast on his character, and therefore he thought the terms should not have been used in reference to him, as there was not the least ground for so doing, or for impeaching that gentleman's character in any way. That the terms were applied no person could deny; but if they were now withdrawn he had not the least objection to such a course. He denied that Mr. Hughes was the spy of the government, or that he attempted to collect anything in a secret manner for the purpose of giving his evidence, as all he did was done in an open and straightforward manner, and it was therefore improper to impeach his evidence. Mr. Ross was a short-hand writer, whose character had not been before impeached, and he with Mr. Hughes attended at the meeting and reported the proceedings. He (the Solicitor General) was ready to admit, and to do Mr. O'Connell the justice of saying, that when he came to address the jury he spoke to the respectability of Mr. Hughes's character. To return to the meeting. In the early part of the day Mr. O'Connell addressed the meeting, and after giving the people the usual caution not to commit a breach of the peace, or be guilty of crime of any sort, he proceeded to revert to the meeting of Tara, and said, "I protested against the union at Tara. I repeat the protest at Mullaghmast." The Solicitor General went on to read the speech delivered on that occasion by Mr. O'Connell, and continued his comments on it. Here, he said, was a distinct avowal that those monster meetings were got up solely by the members of the Repeal Association.

The document to which he had before referred was circulated amongst the crowd who could not come near enough to the platform to hear the sentiments which were uttered there—sentiments in perfect accordance with the document. [He cited a passage where Mr. O'Connell said no people except Turks ever acted as the English.] Now, it was one of the charges in the indictment against the traversers that they used language calculated to excite ill feelings and ill-will in the minds of the people of this country against their English fellow-subjects, and he would ask what language was more likely to effect that purpose than that which was used on the occasion? Mr. O'Connell said he was arranging the plan of a new Irish House of Commons—it was, to be sure, a theory that might be realised in three weeks. He (the Solicitor General) could not conjecture how such a theory could be realised in three weeks, nor did Mr. O'Connell, when he came to address them, explain the matter at all. He continued to read the speech made at the dinner, where Mr. O'Connell spoke about the arbitration courts. He (the Solicitor General) would ask was not that a direct assumption by Mr. O'Connell of the administration of justice in this country? It was as much as saying, I am about establishing a system that will ensure the administration of justice in Ireland. He spoke about three hundred members, and alluded to the state of Wales, and continued to say that the people would be obedient to the Queen, and joined to England by what, he (Mr. O'Connell) called the golden link of the crown, but he did not tell them how long that link was to continue. He (Mr. O'Connell) spoke about 1798, and said the people had some proved men amongst them, but there were many traitors amongst them also, who left the people exposed to the enemy—mind, gentlemen of the jury, the enemy. He (Mr. O'Connell) called the people who headed the rebels of 1798, but who left them, he called those people traitors who sold, and exposed those rebels to the enemy. In his speech at Mullaghmast Mr. O'Connell spoke of the rebellion of '98 as a foolish, absurd, and premature insurrection. Thus it was that this loyal subject of her Majesty was pleased to characterise the treasonable and criminal insurrection of 1798. Did not this, to use his own words, bespeak a foregone conclusion, and did it not prove that the only anxiety which troubled Mr. O'Connell's mind arose from an apprehension lest his followers, whom he was training to discipline and organisation, might break out prematurely, and thus, by some rash movement, ruin all his schemes. He then proceeded to observe that were it not for the spread of teetotalism amongst his followers he would not have dared to have brought the people together in such multitudinous assemblages. Yes, "dared" was his word; and did not this show that Mr. O'Connell in his own mind acknowledged the tendency of those meetings to outbreak, and had a conviction within him that such a casualty would probably have occurred were it not for the combined influence of teetotalism and the organisation that had been effected through the instrumentality of the repeal wardens. So much for Mr. O'Connell's speech at the meeting itself. But after the meeting a dinner was given on the Rath of Mullaghmast, and he found from Hughes's evidence, that at that dinner were present Mr. O'Connell, Mr. John O'Connell, Mr. Steele, Mr. Barrett, and Dr. Gray. Mr. John O'Connell presided at the dinner, and in proposing the usual loyal toast of "The

Queen," he used the following words. [The Solicitor General read Mr. John O'Connell's speech in introducing the Queen's health at the Mullaghmast dinner.] Such was the manner in which the loyal toast of her Majesty's health was introduced by Mr. John O'Connell. On that occasion a letter of apology was read from the Hon. Thomas Ffrench, which clearly explained the motive of calling those meetings together, as that motive had been previously avowed by Mr. O'Connell himself. Mr. Barrett made a speech after dinner, and so also did Mr. O'Connell. [The learned gentlemen read a variety of extracts from both speeches.] Mr. O'Connell, in the course of his address, spoke of the Queen's speech, and denounced it in no measured terms, while he still endeavoured to shelter himself from the consequences of his ill-advised language by professing to make the old distinction between the acts of the Sovereign and her ministry. In the course of his speech he said that he wanted to get the administration of the laws out of the hands of the enemy; and if he had come into court and pleaded guilty to the indictment, he could not more explicitly have proclaimed his criminality than by avowing the use of these words. He said to the people there, "we don't want to have the law administered by the Saxon and the stranger; but, above all, we don't want bigotted men." That is to say, we don't want the judges appointed according to the law and constitution of this country. Again, he actually circulated himself at Mullaghmast the very statement contained in that document, which he (the Solicitor General) read yesterday, and which such a strenuous struggle was made to exclude from the evidence. The learned counsel here read that portion of Mr. O'Connell's speech where he referred to the slaughter of the Irish at the Rath of Mullaghmast. What signified it who printed that document which was circulated amongst the mob at Mullaghmast? What signified whether it was paid for out of the funds of the association or not? when the same sentiments were expressed from the lips of Mr. O'Connell and the other traversers, and in language, if possible, more exciting, for the purpose of creating a most bitter and inextinguishable hatred and hostility towards their English fellow-subjects, by raking up from the recesses of early history, whether true or fabulous, narrations calculated to keep alive the same spirit of animosity against what he called the Saxons. At the dinner on that day Dr. Gray, another of the traversers, in reply to some toast, made a speech, and he should beg their attention to an extract from what he said. He was adverting to the case of the arbitrators, and he said he was proud to return thanks on behalf of the judges appointed by the people. Was that calculated to bring the administration of justice into contempt, or what was the meaning of it? He says, "for a length of time we were ruled and trampled upon by aliens and enemies, but now they had persons selected by the people, deriving their authority not from any governing power, but solely and directly from the people themselves. Our enemies say the judges appointed by the people would be powerless. I tell you they will not; they will have more power than Lord Chancellor Sugden can confer." What was the answer attempted to the charge respecting these arbitration courts: that they had reference merely to petty sessions litigation, and settling small disputes among the people. But what says Dr. Gray, "They can adjudicate



to any amount. The petty sessions magistrates are confined to a few pounds, and the chairman of the county can only adjudicate to the amount of 20*l*." And then he proceeded to say, that "they had a criminal jurisdiction also, if any criminals were to be found." So terminated the proceedings at Mullaghmast. They would remember that Mr. O'Connell, at one of the former meetings, said that he adopted the plan of collecting together large assemblies of the people at particular spots, calculated to keep up in their minds the feelings which that publication at Mullaghmast was calculated to excite, and accordingly a meeting was announced for Clontarf on the 8th of October. On the 30th September there appeared in the *Nation* newspaper, a journal connected with the association, as they already knew, an advertisement, or rather a programme of the manner in which the procession to that meeting was to be arrayed. They would remember that at Clifden, and other of the later meetings, the phrases, military organisation, cavalry and infantry, were used; and, upon the 30th of September, an advertisement appeared in the *Nation*, headed "Repeal Cavalry," which he would read for them. The announcement in the public newspapers of so formidable a demonstration naturally excited considerable apprehension, and that they would have no doubt, by-and-by, when he read some passages from the speeches of Mr. O'Connell, that it was the announcement of the committee, who had been considering the mode in which this demonstration should be made. Either from the existence of apprehension that he had gone too far, or from some other cause, Mr. O'Connell, at the meeting of the association, on the 2nd of October, appeared to have reflected, and to have thought that he was going too fast. They would now mark what took place at the meeting of the Repeal Association on the 22nd of October. Mr. O'Connell then said—"I wish to say, I saw, with great surprise a paragraph in some of the newspapers of Saturday, headed, "Military Organisation at Clontarf." Now, was it probable that the *Nation* would have published that advertisement of its own accord? Did they think it was the act of the publisher? Could they have the least doubt on their minds that it came from the source that he considered a proper and authentic one? And he acted accordingly. But the effect produced by it was such that it was thought necessary to draw back, and, accordingly, Mr. O'Connell, on the following Monday, expressed his unfeigned surprise that such a thing should have appeared. He said, "he thought it was a very good quiz, but it ought not to have been printed, and he informed the Repeal Association not to pay the least attention to it. We were considering it was quite likely there would be great confusion by the number of horsemen at Clontarf, for every gentleman having a horse would be likely to ride there yesterday. The horsemen at Mullaghmast observed the utmost regularity and order, they did not infringe on the people on foot. We were sure that would happen at Clontarf, and the advertisement on Saturday was one of the best quizzes I have seen." Recollect that amongst other things in that advertisement, of which Mr. O'Connell complained, was this passage:—"The committee will make the necessary arrangements to prevent delay or confusion at the turnpike gates." Who were the committee? "We," who were considering that there might be confusion at Clontarf, and that it would

be desirable to preserve order, but it was a quiz to say it was to be done in the manner advertised. But he would now tell them what "we" did then: they issued another advertisement on the Tuesday, in which they substituted the word "groups" for "troops," expunged the phraseology that had a purely military signification, but adopted the whole, substantially, of the advertisement which Mr. O'Connell disavowed. The advertisement so disavowed made such an impression that it was imprudent to avow it as the authentic document, and the same committee took their pen, or one of them took his pen, and struck out the words, "conquer," "parade," "troop," and then inserted the advertisement in Monday morning's paper with the alterations. In the advertisement it was stated that the committee would meet at the Corn Exchange each day during the ensuing week, from four to five o'clock. What did that demonstrate? It demonstrated this, that this was regularly assuming a military character. They afterwards thought they were going a little too fast, and they disavowed it, but anybody that compared the two documents would see that they emanated from the same source. Upon the same day on which that fraudulent alteration, if he could call it so, or apparent alteration was made, the association met, and there was a speech delivered on that occasion by one of the traversers, to which it would be necessary to refer them, and it was one of the strong circumstances in the case as involving him in this combination. At that meeting, which took place on the 3rd of October, there were several letters read, and amongst them was one from the Town Commissioners of Loughrea, containing the names of persons transmitting money to the association, and it concluded by stating that there were two or three persons who had not contributed to the repeal fund, and that they would be turned out of that body (meaning the Town Commissioners of Loughrea) when the proper opportunity occurred; and upon this passage being read Mr. O'Connell said it was quite right to turn out those who were not repealers. There was also read at that meeting a report from the Loughrea arbitrators, which put and end to the pretext that the arbitration so instituted by the association was to be the voluntary nomination of the parties. Then followed the motion of Mr. O'Connell that the report be carried, and it was carried, and inserted on the minutes, and Mr. O'Connell in addition, said he believed he would live to see the day when the hall of the Four Courts would be very empty. This showed a clear intention to supersede all the legal tribunals of the country. Then came the speech of Mr. Tierney. [The learned gentleman then read the speech of Mr. Tierney.] He was far from saying that they would be warranted in including in the indictment any person who merely attended a meeting of the kind in question, and it was a gross perversion of what was really the case to say that they were doing so. The persons they were prosecuting were those who called meetings together for illegal purposes, and when they found this language used by Mr. Tierney, and coupled it with the proceedings at Clontarf, they felt it incumbent on themselves to bring him to justice. It was for the jury to take that language into consideration, and to see how far it showed Mr. Tierney was cognizant of, and participated in, the designs of the other parties indicted, and to give their verdict accordingly. He would now direct their attention to the proposed meeting at Clontarf, and

it would be seen from the circumstances connected with that meeting that the object in calling it together at Clontarf was by bringing to the recollection of the people the victory gained there by the Irish people to excite their minds and feelings against their British fellow-subjects. On the 6th of October Mr. Barrett published in the *Pilot* newspaper an article headed "The Battle of Clontarf," in which, speaking of the place of meeting, the writer observed, "No place could be better or more appropriate for holding it than that spot where the ancestors of the people had gained some signal advantage." The learned Solicitor General read the article at length; also, from the same paper, an historical account of the battle of Clontarf. It was, (he continued) a matter of notoriety that that meeting was not held in consequence of the issuing of a proclamation by the government to suppress it. A great deal had been said by Mr. Moore with respect to the policy of dispersing it by a military force, but whether or not it was properly or improperly dispersed was a question with which they had no concern; they were not called upon to decide it in considering of their verdict. But if the interposition of the government had not taken place, in what condition would Mr. O'Connell's plan be at the present moment, and how would the country be affected by it? They would recollect that Mr. O'Connell, at previous meetings, announced his intention of assembling at the end of last year, or the beginning of the present, 300 persons in the character of legislators, or at all events, negotiators with the British parliament on the part of Ireland, which would be a sort of consummation of his plans for having a separate parliament for this country. The fact, however, of the stopping of the Clontarf meeting appeared to have arrested his proceedings in that respect. How far Mr. O'Connell would be warranted in the assembling of such a convention was not for the jury to say. The traversers' counsel read, as a part of their case, certain passages from a speech delivered by Mr. O'Connell, at the Abbey-street theatre, on the 9th of October. At that meeting a person of the name of Hanley presented an address to Mr. O'Connell from the repealers of Manchester. [The Solicitor General read the address in the emphatic manner he had observed throughout, and then commented upon it.] He said he did not know what was meant by the expression in it—"aliens and exiles from their native land." He did not know how any one could believe that the existing state of the law compelled them to be exiles from their native land. The gentlemen of the jury should observe, that the address from the Manchester repealers was signed before they were aware that the meetings were put a stop to. On the 7th of October the proclamation was issued, which announced to Mr. O'Connell the determination of government to stop these meetings. Issue was then joined with him as to the legality of his proceedings. Month after month Mr. O'Connell had told the people that they had violated no law, and he dared the government to attack them. Yet, when the attack was made, they should observe the way in which he answered that address, which was a perfect echo of his own sentiments. They should observe the difference between it and the language he used, when the challenge he had so often thrown out was accepted. He then proceeded to read Mr. O'Connell's answer to it, and went on to say---If the language of Mr. O'Connell had been always such that he was not afraid then to avow and confide in it,

how did he find out, on the 9th of October, when he wrote the answer they had heard read, that prudence was necessary? or why did he then talk of it? He (the Solicitor General) merely adverted to that answer because it had been relied on by Mr. O'Connell; but so far from being favourable to him, it fully proved that his language had been formerly too strong. He had at length gone through the evidence for the crown, and he thought, that so far there could be no doubt entertained by any reasonable person, that all the persons upon their trial, some in a greater, some in a less degree, were embarked in one common combination. He would not say they had done so in secret and in the dark, or in what was vulgarly called a conspiracy, for the purpose of carrying into effect their agreement. But they had been guilty of that which in law was a conspiracy, and which could only be reached by an indictment for a conspiracy. The jury must be aware that what he meant was that they had combined together for the purpose of instilling feelings of hostility and ill-will, and otherwise to create amongst the people discontent and disaffection against the government and the constitution, and that they had combined to tamper with the army, and to create in the minds of the soldiery a feeling that would prevent them from performing their duty, if in the event of a foreign war and outbreak at home they should be called upon to do so. They had also combined for the purpose of bringing into disrepute the administration of justice, by inducing the people to believe that they could not confide in its administration by aliens and strangers. Lastly, they had collected the people together, and impressed them with the belief that their object was to be attained by force—not moral force—and they endeavoured to create amongst them an impression that they might be called on to use that force; and, at all events, they sought to create an impression upon the people of England, and here that physical force and organisation existed to such an extent that it would be vain to refuse their demand for a repeal of the union. If the gentlemen of the jury look at each of the traversers own declarations they could have no doubt that each of them had the one common design. Did they ever hear of a charge so fully proved, or one so utterly abandoned by the defendants? What evidence did they produce? They put on the table Mr. Conway, of the *Evening Post*, to prove that a meeting had taken place in 1810—a meeting of the citizens of Dublin regularly convened by the sheriff. That was a constitutional meeting. Mr. Perry, a respectable member of the Society of Friends, was also produced for the purpose of proving the rules adopted by the Quakers, but what relation had those rules to the usurpation of the judicial functions of the country by the appointment of judges by an irresponsible body; the Loyal National Repeal Association. A reference was also made to the Ousel Galley, and a gentleman was called to prove that disputes were referred to the merchants of Dublin who received fees. A Mr. Morgan was next called to take the sting out of the evidence of the crown, which related to the arch at Tullamoore, but it would have been better that he had not been produced—for it appeared that there was a witness in town who could have thrown a light upon the transaction, but he was not produced, and could they have any doubt that the able counsel who conducted the defence, comprising as they did some of the most eminent men at the bar, had a conference with that individual, and found that it would not do to

produce him. The counsel at the other side then read several resolutions and speeches made by Mr. O'Connell. Did they (the jury) take the dates of those several speeches? If they did, they would find that they went on from the beginning of 1841 to the end of 1842, or the commencement of 1843; beyond that period it was not considered safe to go. Recollect a new repeal card issued in 1843, recollect the date of the several documents and the proceedings which characterised the nature of every thing that took place in 1843. It might as well be attempted to meet the case of the crown by bringing forward what Mr. O'Connell said in 1802, or the earliest part of his life, or what any one of the traversers said, as evidence in answer to the charge of Mr. O'Connell or the association did in 1841 or 1842.

Mr. Whiteside said it was not necessary to read over the speeches of 1843; having been read by the crown, it was evidence for the traversers.

The Solicitor General said that no new evidence was given by the counsel when they came to their case in addition to what they (the crown) had read. Mr. O'Connell repeatedly told the people in 1843 not to violate the law, and his speeches were read by the crown; but what he asserted was, that no new evidence was given by the counsel for the traversers in reference to the proceedings of 1843. What are the facts? said the Solicitor General; not a single petition was presented to the House of Commons, from the commencement of last session to the close of it. It was necessary that there should be some pretext for holding these meetings. Mr. O'Connell and his associates were not to tell the public—"We want to excite ill-will amongst her Majesty's subjects." The pretext was that they exercised a lawful right, and it was not till it was found that the meetings were all concocted for the purpose which afterwards appeared from their acts that they were proved to be illegal, and the pretext with which they were called was found to be fallacious, and calculated to deceive. I say, therefore, that the absence of a single petition to parliament during the whole of the sessions speaks, trumpet tongued, against the flimsy pretext that the meetings were held in the exercise of a constitutional right. It does not appear that the principal traverser went to parliament, presented a petition, or attempted to raise the question in any constitutional way. Nay, more, as suggested by Mr. Holmes, it does not appear that a single petition was signed by one of the 250,000 persons that assembled at Mullaghmast, nor any one called upon to affix his mark to it. Mr. O'Connell made a very long statement to you, and I protest I must say that I never in my life heard so little applicable to the charge which he was called upon to meet. Mr. Henn very properly observed that you were not empannelled to try whether the union should be repealed or not. You are not, as Mr. Henn very properly observed, to try the question, and I perfectly agree with him, but from the commencement to the end of Mr. O'Connell's address, this was the only question to which he applied himself. When the great mass of evidence which you have heard is brought in array against Mr. O'Connell, was it not to be supposed that he would have given an explanation of the language which he used? How has he acted? He has dared the government to the discussion of the illegality of these proceedings, and has he announced to you any one legal, peaceable, or

constitutional mode by which he proposed that the union should be repealed? How does he justify this concoction of a new constitution for this country---the number of Commoners who were to sit in the House of Commons---the place in which they were to sit, and the elective franchise? Has he attempted to vindicate or support the legality of these propositions? No. He has not attempted to show that any legal, peaceable, and constitutional means were resorted to. What does this prove? It proves that this agitation was carried on not for the purpose of effecting the object of a repeal of the union by any such means, but by coercion, intimidation, and a demonstration of large assemblies by the various means specified in the indictment, because Mr. O'Connell knew he could not obtain what he sought in any legal or constitutional way. He also claims merit for having, at the risk of his life, assisted in putting down the combination which existed in Dublin, and also for showing that he was not actuated by animosity towards Sir A. B. King. He deserved merit for these acts, but they had not the slightest bearing upon the case. Was it any explanation of his conduct? was it any redemption of the pledge to prove that he had adopted constitutional means? I must, therefore, take leave to say this is an unexplained and undenied accusation. In one part of his address he complained that an opportunity had not been afforded to him to explain his violent speeches. I do not know what he means. He would at all events seem to admit that there were passages which required explanation. Till he came here, his case was that he violated no law or principle of the constitution; and if before the prosecution no opportunity was allowed him for explanation, has he not had that opportunity now? The case on the part of the crown is wholly un rebutted. When you consider the several portions of the evidence together, you will find there did exist, beyond all doubt, a plan amongst the traversers, or some of them. Their mode of proceeding was to create in the minds of the people dissatisfaction and discontent against the imperial parliament for the manner in which they governed the country; to inflame the passions of the unfortunate people of this country, by using the term "Saxon" in an opprobrious sense, calling the English, oppressors, tyrants, invaders, and strangers---raking up old and all-most forgotten feuds, massacres, and victories, and the memorable events and battles in which the Irish had been successful over the English. It was part of the plan also to tamper with the army, and to make the people understand that if it were necessary to resort to any military force to preserve the peace, and vindicate the law, they might safely rely upon the neutrality of the army, or upon their coming round and joining the standard of the Irish, I think you will also find that the whole of those meetings---the calling on the people to be ready when required---the allusions, the frequent allusions, to their physical force---the accounts laid before them of the victories obtained by their ancestors over persons who had invaded their country---the description given of the military positions through the country which could be used with effect---the banners, flags, wands, and other emblems of order, proves, beyond a doubt, the intention of those parties that these great demonstrations should present a display of physical force which would have the effect of overawing all opposition to the carrying of this measure, which Mr. O'Connell pledged himself to effect through

all hazards, one way or another for those persons who had advanced their money ; and finding it impracticable to do so by the regular and constitutional mode, he was driven to make this exhibition of physical force—for I don't say that he had any intention of using it here—because that would be high treason ; but he made this demonstration in order to compel the government to grant what he required, and to create an impression in England that there was a physical force at hand ready to overawe all opposition when the time arrived, if the rulers of the country did not yield at once, so as to enable him to redeem his pledge. Gentlemen, when you consider also the time at which those arbitration courts were determined on—when you recollect that the dismissal of the magistrates by the Lord Chancellor was the reason and occasion that this measure was brought forward, and that those appointments were made by the association—when you recollect the forms of proceedings, the constitution of the courts, and consider that the dismissed magistrates are the persons substituted, you cannot have a doubt but that there was also a settled plan concocted by the traversers to disparage the legal tribunals of this country, and to substitute those appointed by the association. When you then have here the traversers and their association assuming all the functions of the state, or, to use the words of Mr. Duffy, “ we are a nation, and have the administration of justice—we have taxation, order, and military discipline, foreign policy, and, lastly, legislation,” can you have a doubt what their object was—or that they did not intend to set aside the legal and constitutional courts of justice instituted throughout the country. My learned friends at the other side culled from the history of England and Ireland, specimens and instances of meetings called together, and speeches made of an inflammatory nature—they may collect from the histories of different administrations the assembling of large numbers of persons for political purposes ; but is there on record, I will ask, anything approaching to such a state of things as here existed, for we have not only the functions of the legislature and the bench usurped and assumed, but every institution of the country attempted to be taken out of the hands of the proper authorities. Such a state of affairs could not be permitted, and, I will ask, if you can have a doubt but that all those functions were assumed by the traversers? Do you believe that Mr. O'Connell has done so—that Mr. Steele has done so—that Dr. Gray, Mr. Ray, Mr. Barrett, and the other traversers, have done so—that they have taken upon themselves their different parts in this conspiracy? We have the minister of justice, Dr. Gray—we have the minister of Finance, the Chancellor of the Exchequer, and the Lord Chancellor—in fact, we have an office corresponding with every public department in the state, and officers appointed thereto by the Loyal Repeal Association. Gentlemen, you will always bear in mind, and it can scarcely be too often repeated, that not one of the reporters of those newspapers were produced ; and also recollect that three of the traversers are the proprietors of those newspapers, having those reporters in their employment, whom they could produce, and whose exclusive business it was to attend those meetings and report the proceedings ; yet, not a single one of them is produced to contradict a word of what has been proved by the crown. Therefore I am justified in stating the case for the prosecution an uncontradicted case. Mr. Shield asked loudly of the state of distress

in which the people of Ireland were placed, which I am sorry to say was very true to a certain extent ; but the cause of it I believe is ascribable to the poverty of the country ; but, whether he considers the proceedings of this body are calculated to remedy those evils or not, I cannot say--- however, I suppose he does, or he would not have spoken as he did. After the passing of the Catholic relief bill we were told, and thought that all the grievances of Ireland were to be remedied, but Mr. O'Connell told you that he began his agitation for repeal before that act passed, and entertained the subject for years before, which it was his determination, if possible, to carry out. But, gentlemen, it is possible that our country can be improved, and that wealth can flow into it from England, whose people are vilified and called Saxons, and who are said to pollute our soil by their accursed foot ; and is it, I say, possible that any country under such circumstances could prosper, and that the people of an adjoining nation so abused should embark their property in improvements in it, when they heard of and read such speeches as the crown has in this case produced in evidence. Topics of this sort, gentlemen, I know would be as well not alluded to, because they are not such as should affect your verdict ; indeed I feel myself constrained within limits from going into a great number of observations which I might otherwise make upon those matters ; but when it is suggested, and the state of this country is laid before you as a justification for the adoption of those proceedings. I must observe that I think that the present state of Ireland may be ascribed solely to the existence of the repeal agitation, of which the leading traverser admitted himself to be the instigator. Gentlemen of the jury, we do not call upon you to find a verdict in this case with reference to the consequences which it may produce, but we do call upon you to find your verdict upon the law, and upon the facts as they have been detailed to you in the evidence. Their lordships will tell you that a "conspiracy" does not necessarily imply secrecy, or in order to sustain that charge, that it should be proved to your satisfaction, or proved at all, that every thing the traversers did was done in the dark, because a conspiracy may be such, that the objects of the conspirators are openly declared and avowed. Indeed yourselves must see that it would be impossible to carry a conspiracy of this sort into effect secretly ; therefore, gentlemen, you will altogether discharge from your minds that secrecy was necessary to constitute the offence. A conspiracy in its legal sense, is the joint act of more persons than one, to carry into effect a common design which was unlawful, or having in view an object in itself legal, to pursue that object or design by illegal means. That being the law, we charged these parties with a conspiracy, or, in other words, that there was an illegal concert or combination between them for the attainment of a common object. We find each and every one of them following out the purposes of that conspiracy or combination so arranged, and each of them engaged in his own particular department. We find one of them publishing articles in one newspaper ; another of them publishing articles in a different newspaper ; more of them making speeches ; and the object of each and every of those acts of all the traversers tending to the attainment of the common design. Meetings were held—speeches were delivered at each of these meetings—the purposes for which they were convened were



openly avowed, and that purpose was declared to be a regular and systematic determination never to cease until the attainment of the common object was accomplished. This purpose was so fully and clearly developed, that I really do think it is impossible for you to have the slightest doubt upon your minds that this agreement or concert did exist between the traversers in this case in 1843. Have you a doubt upon your minds that the common object was to bring the government into contempt—to neutralise the army—to disparage the administration of justice—to create ill-will and dissension amongst the people, and to excite discontent and disaffection amongst them, and that all this was done for the purpose of attaining the common object or end, namely, the repeal of the legislative union between Great Britain and Ireland, and for the attainment of which each and every one of the traversers at the bar had openly avowed himself to be engaged. This attempt upon the part of the traversers was compared to the movement of the Volunteers in 1782, when the Irish Volunteers came forward and insisted upon what they conceived to be the rights of Ireland; I arraign this comparison as a complete fallacy, which was practised upon the people of this country by the traversers and their associates. The state of things at that time was entirely different from the present condition of Ireland (and no one knew that better than Mr. O'Connell himself). In the reign of George the First an act of parliament was passed in England, enacting that it should be competent for the English parliament, in which the Irish people had then no representatives, to make laws for Ireland, and from the enactment of that statute, down to 1782, laws were made in that way for Ireland. Undoubtedly, that was contrary to constitutional principles, because there was no representation upon the part of the Irish people, who were to be bound by those laws. It was, I admit, contrary to all principles of justice that Ireland should be legislated for by the English people, while she had no voice in the enactment of the laws by which she was to have been bound. Accordingly in 1782 there was a declaration made upon behalf of the people of Ireland, by the Irish Volunteers—"that no power on earth had, or ought to have, a right to legislate for or bind the people of Ireland, except the King, Lords, and Commons of Ireland," and the declaration of the Irish Volunteers was no more than this—"it is not right, nor fair, nor just that we should be bound by the acts of those amongst whom we have no voice or representation—we have no voice in the English legislature, and therefore no power on earth has a right to bind Ireland except the King, Lords, and Commons of Ireland." That was fair and reasonable; but to use that argument now, in 1843, when the people of Ireland are represented in the imperial legislature, and to say that "no other power on earth had a right to bind Ireland except the King, Lords, and Commons of Ireland," and to justify that assertion by the declaration of the Irish Volunteers in 1782, was not alone an absurd fallacy, but it was an assertion made contrary to every principle, legal and constitutional. It is no less than telling the people of Ireland, "you have been legislated for and governed by a power which has no right to govern you," and this is attempted to be justified by the assertion that the Irish Volunteers did the same thing in 1782. The people of this country have been told over and over again that they were governed by a body of men who had no

right to govern them, as "no power on earth had a right to legislate for them except the King, Lords, and Commons of Ireland." Now I say that to lay down such a doctrine as that in 1843 is unconstitutional, illegal, and seditious; even Mr. Molyneux, whose works had been so often referred to, said, "that the people of Ireland ought to have their representatives in the parliament of England." It is, gentlemen of the jury, a mere pretext to say that the declaration of the Irish Volunteers is the basis of the present movement. What did Mr. Molyneux say further? "He believed that the Irish people would be willing enough to embrace the offer of being represented in the parliament of England, but that was a happiness which the Irish people could hardly hope for." What were the representations made by the traversers? That "the Saxons" had no other object but conquering the people of Ireland, and keeping them in a state of subjection. Gentlemen of the jury, I have now to thank you for the very patient attention you have paid to the observations I have felt it my duty to make to you. There are many other topics upon which I might have dilated, and which have been commented upon by the counsel for the traversers, but I do not think it necessary for me to do so. My learned colleagues and myself have endeavoured to bring this case before you in the usual mode of administering justice by the common law, upon the only charge, and in the only way which the offence, that we say exists, could be brought forward, and I think we may claim for ourselves credit for having conducted the case temperately, though firmly. I think I may say there never was, in the history of our jurisprudence, a case in which a more wide latitude was allowed to the persons on trial—not a single topic was interfered with—no obstruction whatever—not a solitary objection was started by us to the reception of any evidence which the traversers thought fit to offer. Some of the most distinguished men at our bar have been retained for them, and have put forward their case with the most consummate ability—every advantage that could be was given to the traversers, and, with all those advantages, what is the case they presented to you? Are you, any of you, able to understand what the object of the traversers was, if it was not to band themselves together for the accomplishment of the repeal of the union by illegal means? Has any of their counsel even attempted to give you any other explanation of their views or intentions, has any suggestion been made to you that they entertained any other views? Not one! Has a single witness been called to give you any other explanation of the matter? Not one. No, on the entire, I think a case more wholly devoid of evidence to exculpate the traversers could scarcely be imagined. It now only remains for me to ask you, has it not been shown that all the traversers have been more or less engaged in those proceedings which constitute the illegal combination with which they are charged? Has it been shown that these proceedings were of that lawful character, and had that peaceful design which the principal traverser all along asserted he would show them to have had? No such thing. I am right in saying that those proceedings were unlawful, and that we have demonstrated them to be so, and it only remains for you, gentlemen of the jury, to consider how far the persons on their trial have embarked in this unlawful combination. With regard to the connexion of the principal traverser with

those proceedings there can be no doubt whatever. With respect to those other traversers, the publications in whose newspapers are in evidence before you, there can be, I think, do doubt. As to Mr. Steele, the *fidus Achates* of Mr. O'Connell, he has avowed that he identifies himself with the opinions of Mr. O'Connell, and, therefore, there can be no doubt about him. With regard to the Rev. Mr. Tierney, who by his speeches on one or two occasions, and by the communications he has had with Dublin, has so identified himself with the object of the other traversers, there can be no question; and with respect to Mr. Ray he is clearly a member of the association. You will observe, gentlemen of the jury, that no explanation has been given as to the real object which the parties had in view. They could have testified to the purity of their object by producing the resolutions on their books—the communications with their officers, and the account of the application of the money they collected, or by producing any of their officers to tell you “I am acquainted with the objects and proceedings of this association, and I know them to be perfectly peaceful, lawful, and constitutional.” Not a single particle of evidence of that description was produced. On the contrary, the greatest caution was observed on the part of the traversers in the production of evidence. I do not mean to say that it is incumbent on persons to come forward and criminate themselves, or that the association should, at the bidding of the crown, come forward and show the legal character of their objects and proceedings. I do not say that; but when I find persons connected with that association conducting themselves as the traversers have done, I have a right to expect they will show what were the objects of this association, and how far they intended to go. I do not profess to know in what state we might have been but for the stopping of these meetings in the month of October. You will recollect that Mr. O'Connell at that time, in addressing the people, told them that he had one or two steps still to take before his plan arrived at maturity. His plan was to proceed pace by pace, and to adopt his several measures before he unfolded his ultimate design. I will not say what the consequences might have been to the peace of the country if the council of three hundred had met, and three hundred persons from the different counties and towns had taken upon themselves to represent the feelings of the people of Ireland, and formed themselves into a body for the purpose, as it was said, of opening a negotiation with the British minister. I do not know what the term negotiation means. My learned friend said that an agitator must be sometimes a diplomatist, that he must be exorbitant in what he asks for in order to get what he really wants. That was the language of Mr. Shiel; but notwithstanding this opinion of my learned friend, if you believe this proposed negotiation to have been held out as a threat to the British ministry, there can be no doubt of the criminality of the parties. I hope I have satisfied you that there has been a conspiracy in the legal sense of the term. It has been said that we should have shown the existence of a secret combination, to be proved by the evidence of informers and spies; but all that it was necessary for us to prove was, that there existed a community of purpose among the traversers, in the pursuit of their common object by illegal means. I am told that we should have proceeded against Mr. Duffy for the

publication of libel, and against Mr. Barrett for libel, and against Mr. O'Connell himself for the uttering of seditious speeches. But the great question to be tried is the legality of these proceedings, and the legality of this body. To try this question we have taken all the leaders in a mass; we have collected them into a focus, and brought them into this court on a charge of conspiracy, which their acts have demonstrated. We have not proceeded against the inferior agents, but we have joined issue with the leaders themselves, and resolved to take the opinion of a court of law, and of a jury as to whether these proceedings are legal or not; we have been taunted with not having proceeded against these parties severally; but having held each responsible for the acts of the other, we have shown a combination between the parties; this has been established by the acts of each, and therefore every man has been responsible only for his own guilt, I have now, gentlemen of the jury, brought to a close the observations which it has occurred to me to make on this case. I have no doubt you will discharge your duty, as we have done ours, fairly, temperately, and impartially. I call upon you for your verdict, not because this country is in a state of suffering or disturbance—not because your verdict may tend to effect the peace of this country—not because of any consequences to the public or individuals, or of any effect which it may produced upon the legislature of the country but I call on you to give your verdict as law, justice, and the uncontradicted evidence in this case demand.

At the conclusion of the learned gentleman's address, the court adjourned for a short time.

Their lordships returned into court at one o'clock.

The Deputy Clerk of the Crown called over the names of the jury, all of whom answered.

The Chief Justice then commenced his charge to the jury---He said it now fell to him to make such observations as occurred to him to be submitted to their consideration, upon the manifold circumstances of this very important case, and he was happy to say, that in conference with all his learned brethren of the bench, there was a concurrence of opinion existing between them upon the subject matter which he should have to lay before them. It had been, and was most highly satisfactory to the court, and most creditable to the jury, to observe the unvaried and constant attention which they had paid, from beginning to end, to the circumstances of this strange and important case. He said strange only with respect to its duration; for himself he did not feel that it was a case in which there existed any great difficulty in the law, and upon the facts of which so intelligent a jury as he had the honour of addressing, would finally have to pronounce their verdict. They had heard, during this long trial, a great deal of eloquence---they had heard also somewhat of declamation---they had heard great oratorical powers, and powers of reasoning---they had heard a great deal of what might be deemed poetic; and he did not mean to say but they had also heard a good deal of what might be more justly termed prosaic (laughter). They had heard observations made to them which he could not help saying, generally, bordered on the verge of impropriety; but, what was more material, they had heard a great deal which it would be very difficult, indeed, to prove was relevant to the subject they had to

consider. There were many observations made both as to the law and the facts. On the latter subject they were the constitutional judges to determine, and to come to a just conclusion. The law of the case they would take from the court, the judges of which were constitutionally entrusted with the administration of that law, bound to administer it under the most solemn sanction, and independent alike both of the crown and of the people. They (the judges,) therefore, sat there in the Court of Queen's Bench under the same obligation as that under which the Queen held her crown, to administer justice with mercy, according to the laws of the land. There were, as they knew, eight traversers then upon their trial—Mr. Daniel O'Connell, Mr. John O'Connell, Mr. Thomas Steele, Mr. Thomas Mathew Ray, Mr. Charles Gavin Duffy, the Rev. Thomas Tierney, Dr. John Gray, and Mr. Richard Barrett. Those were the several traversers upon their trial, and he held in his hand the abstract of the indictment upon which they were charged, and to which they had respectively pleaded "not guilty." They were indicted for conspiracy to raise and create discontent and disaffection amongst the Queen's subjects. The particulars of the alleged objects of this conspiracy it was very material for them to keep in mind. Perhaps, they might have, in coming to their verdict, a necessity to distinguish with regard to the several traversers, or some of them in respect to the nature of the conspiracy which was charged against one and all of them. The indictment consists of eleven counts. The first count contained all the several charges of conspiracy that had been enumerated to them, accompanied with divers and singular overt acts, or means by which those objects were to be carried into effect. Overt acts were not part of a conspiracy, but were inserted in the indictment as statements of the evidence by which the charge of conspiracy was to be supported. Gentlemen of the jury, those overt acts were introduced into the indictment for the purpose—the laudable purpose—of giving the parties, who were accused of a conspiracy, notice of the particular facts by which the crown intended to support the charge of conspiracy in question. Those overt acts were now in evidence, but the question was not so much as to the existence of particular overt acts named, as to the conspiracy of which they are stated in evidence; but it was not upon the effect of the evidence, but upon its results, they would have to decide; and they would have to say, not whether a particular overt act took place, but whether the parties accused were guilty of a conspiracy or not. They would now see how very important it was in the outset that they should take into their consideration clearly the several particulars of the alleged conspiracy. It was, or may be considered to be, consisting of five parts. First, to create discontent and disaffection between the Queen's subjects, and to excite them to hatred and unlawful opposition to the government and constitution of the country. Secondly, to stir up jealousies among the Queen's subjects, and promote ill-will from one class against another, especially from Ireland against England. Thirdly, to excite disaffection in the army. Fourthly, to collect unlawful assemblies in large numbers in Ireland, in order to obtain changes in the law and constitution of the country, by intimidation and demonstration of physical force. And fifthly, to bring the courts of justice, as established by law, into disrepute, and to induce the subjects of the realm to submit their differences to other tribunals. Now, it was a conceded fact in this case that the indictment

upon which the traversers were brought to trial, and to which they had pleaded, consisted only of an offence of one nature ; that was to say, it might have different branches, as he already stated ; but still, upon the whole, it was an indictment for a conspiracy and for nothing else. There was no indictment against any of the traversers for a libel—there was no indictment against any of them for sedition, nor on any other unconnected or separate breach of the law. They were, one and all, united in the charge of conspiracy, of which no individual could be by law convicted, unless it was proved to the satisfaction of the jury that he had been acting in concert with some other person or persons. An individual of himself could not, *per se*, be found guilty, unless he joined somebody else to commit the crime of conspiracy. He might be guilty of any one of a numerous other class of offences of which men were daily guilty ; but for the conviction of any one or more persons for a conspiracy, the law required that a jury should be satisfied that there was a concert between them either for the purpose of doing an illegal act, or else for the purpose of doing, or causing to be done, an act legal in itself, but to be brought about by illegal means. Now, he took that to be the definition of conspiracy, which, according to the law, he could not only safely, but which he thought he was bound to put to them. They would see that in that definition he did not include, as a component part of the crime of conspiracy, either the existence of treachery, as was insisted on by Mr. Fitzgibbon on the first day of his address, nor the existence of secrecy, which he insisted upon on the second day, and which was afterwards reiterated and repeated by Mr. O'Connell, the traverser, when he addressed them, as he was entitled to do, in his own defence, and stated his case to them. In his opinion—and in the opinion of the court—it was a mistake in law to say that, in order to establish a conspiracy, it was necessary for the crown, or prosecutor, to prove the existence of either treachery or of secrecy, in order to complete that charge. He did not mean to say that treachery and secrecy did not often concur in the existence of various conspiracies, but he denied altogether that it was the law of this country, that the existence of one or other of such ingredients should be proved, in order to constitute the crime of conspiracy. He did not know very well how to designate the disagreeable idea which had connected itself with the term conspiracy. Perhaps it might be found in Johnson's Dictionary, from which Mr. O'Connell took it ; perhaps it might be found in some other common or ordinary book, from which Mr. Fitzgibbon derives his notion of treachery ; but, in common parlance, something disreputable, or bordering upon infamy ; and as such was alleged by the traversers and their counsel, from which they were called upon to beware and ponder before they would find the traversers, or any one of them, guilty of that infamous crime. Now, whether that infamy did connect itself with the charge of conspiracy or not, it did not at all come within the legal definition of it. A conspiracy might exist, and men might be guilty of a conspiracy without having been guilty of treachery, or without those deeds of darkness which Mr. Sheil insinuated were necessary, and constituted part of the crime of conspiracy. Secrecy might not unfrequently be found to accompany a conspiracy, but it is not, by any means, a necessary ingredient of the crime. Nay, more, he would further say, that if secrecy

were necessary (and by this he did not mean to anticipate, God forbid he should, one way or the other, the conclusion at which they might find themselves bound in conscience to arrive), but he would say that, if secrecy were a necessary ingredient in the crime of conspiracy, the crime charged in the present indictment might have been carried on from its commencement to its consummation, and the parties concerned could never be disturbed in their progress, or be brought before any tribunal on a charge of conspiracy. He had said this in order to exemplify his view of the principle generally, rather than as bearing on the present case; and in what he had said let it be rejected from their minds once for all, that he was giving anything like an opinion, or anything bordering on an opinion, with regard to the facts of this case, which would be entirely for their decision. Secrecy need not be necessary for a conspiracy, if the parties conspiring agreed together for the common object of overawing the parliament of the country, and spreading terror and alarm amongst the Queen's subjects, by collecting together in the open day large bodies of people. In a conspiracy of that description, secrecy was not a necessary ingredient; nay, on the contrary, the more numerous, and the more public were the assemblages convened for such a purpose, the more likely were they to accomplish the end of the party who called them together, they thus proving part of the crime with which he was charged. His object being all along to create terror and intimidation, and to overawe the public, which object would be brought about more effectually by a public demonstration, than by secrecy or concealment. He put this to them merely as a suppositious case, to show the fallacy of those who had insisted that as a necessary ingredient in the charge of conspiracy, there should be established to the satisfaction of the jury an evidence of secrecy. A great many authorities had been cited by Mr. Fitzgibbon, in the course of his argument both on the first day, when he insisted on the existence of treachery, and on the second day, when he insisted also, or perhaps in the alternative, on the existence of secrecy. He had looked into these authorities, and he was bound to say, that in his judgment, and in the opinion of the court, there was not one of them which supported the proposition for which they were cited, namely, that in order to substantiate a charge of conspiracy, either treachery or secrecy was necessary. Mr. Fitzgibbon had contended that the definition he (the Chief Justice) had given of conspiracy had been found fault with, or overruled, in a case to which he referred, by Lord Denman, the Chief Justice of the Queen's Bench in England—the person who was alleged to have first introduced the definition of conspiracy, such as it had been now laid down to the jury. Now he begged leave to assure Mr. Fitzgibbon that it did not at all appear that Lord Denman ever did say such thing; and, furthermore, that the rule, or definition which had subsequently been followed, had been the rule or definition which had been followed and adopted not only by Lord Denman himself, but by a variety of successive judges in different courts of England, who gave their judgments judicially on the subject. The same circumstance happened in several other cases, in which it became necessary to consider the law of conspiracy, and judicial opinions were pronounced from the bench, severally and seriatim, by each individual judge, in which they one and all respectively concurred in the justice of the rule, and gave their judgments

in the respective cases according to that common opinion. The only thing resembling an imputation that had ever been cast upon this rule by Lord Denman (and the supposition that it was an imputation arose out of a mistake of Mr. Fitzgibbon's) was this :—The rule was cited to him in the progress of a law argument by a Mr. Carrington, a member of the English bar. The rule was cited not as he (the Chief Justice) had stated it, namely, that a conspiracy was either an agreement between two or more persons to procure an unlawful act to be done, or else to procure the accomplishment of a legal end by unlawful means. He said that Lord Denman denied the antithesis to be correct. Every body knows that Lord Denman was a learned and excellent lawyer, and he then only spoke as a grammarian. He (Lord Denman) did not alter the law, but left it as he had found it—and all the judges in England, for the question had been often brought before them—have acted upon the rule. Mr. Fitzgibbon, on the first day, with a good deal of seriousness, and he might add, gravity, had solemnly announced the law, not to be then as stated, and had found fault with Mr. Moore, counsel for one of the traversers, for having adopted the law as laid down by the Attorney General. He had said with earnestness that it was not the law, and he had given a certain definition of it as it was found in an old act of parliament, from whence he inferred that a conspiracy was the existence of an unlawful association of two or more men, bound together by an oath for the purpose of imposing a false accusation upon some other person; and he referred, in support of his proposition, to Hawkins's Pleas of the Crown. If it were there laid down as Mr. Fitzgibbon had stated, it would, nevertheless, not support him, for he contended that treachery was a necessary ingredient in conspiracy. What he had stated was from "Hawkins," page 444; but he forgot to add, that in page 446, Mr. Curwood, a gentleman of the bar, who edited the last edition, stated thus: "Modern cases of conspiracy have certainly stretched the doctrine of conspiracy far beyond the old rule, and, in the opinion of Lord Eldon, ought not to be pushed any further." But Mr. Curwood stated that the offence consisted in imposing, by combination, a false crime upon any person, or to commit an innocent man by perversion of law and perjury. But he also stated properly, that the ancient law was long before extended beyond what it was in the reign of Edward I. He (the Lord Chief Justice) need only refer to the multiplicity of cases in which the construction he had given had been acted upon and exercised—and to the unanimous opinions of the judges, from whence the rule laid down was adduced—and from which also it was evident that treachery and secrecy were not necessary in the law of conspiracy as it now stands, although they might be included in it. Having thus stated what the law of conspiracy was, and what it was not, he said he would not trouble them with a repetition of the cases which he and his brethren had conferred upon, and had satisfactorily come to the conclusion that the law of conspiracy was as he then announced it. Having stated what the traversers were accused of, he thought it right to lay down a few other rules by which they, the jury, might hereafter see the proper bearing of the case. In order to convict the defendants or traversers, or any of them, of the charge of conspiracy, it would be necessary for the jury to be satisfied—he did not mean to say



that they should surmise, but that they should be satisfied that they had such evidence before them as to arrive at a conscientious conclusion that the defendants, or some of them, did respectively agree and combine for the one common object, or agree to do an unlawful act, whether that act be unlawful in itself, its origin or design, or became so by the unlawful means by which it was agreed to be brought about. That was one observation which he would make to them. Another observation he would make was, that to constitute the crime of conspiracy, it was not necessary that the unlawful thing should be mutually done—should be effected---the crime of conspiracy was complete, although in point of fact the criminal end was never attained. Another subject he would lay down was, that if they were satisfied that an unlawful agreement had taken place, of the nature he had stated, either to do an act in itself unlawful, or to be done by unlawful means, and that it was not done; but if they were satisfied that such a criminal agreement had taken place, from that moment the act of each one of the association in that conspiracy was reciprocal; and would be evidence against one or all of the party, as conducive to the same criminal end, though it be not proved that each and all of the several conspirators, had either participated in each individual act—although he would say it be not proved that each and every of the several parties charged with the conspiracy, had been guilty of any particular act, except the tending to the common end which they all had in view. He would go further, and lay down another rule for the jury:—it was not necessary—and now he was going to use the language of a very eminent English judge, in the case of the late trials---the trials which took place in the year 1837: that learned judge, in his charge to the jury, said it was not necessary that it should be proved that the several parties charged with the common conspiracy, met together for the purpose of concocting the scheme; nor was it necessary they should have originated the conspiracy either. The very fact of the meeting to concoct the agreement was not necessary—absolutely necessary—to be proved to them, it was enough for them to say from the act that had been proved if they were satisfied the defendants acted in concert on the whole matter or not. If they were satisfied that there was a concert between them, that is, an illegal concert, he was bound to say that all the parties, taking each particular act of the conspiracy to be established in their minds, if they did so, then the common sense and the law of the case was, that the act was that of all the parties. He would lay down another proposition, and they would bear in mind that his observations now had reference more particularly to the case of the Rev. Mr. Tierney than to anybody else in the present case. It was not necessary that it should be proved the parties met to concoct a conspiracy or in secrecy, nor was it necessary that some parties should have joined in a conspiracy in the first instance to make him liable for certain acts. It was said that the Rev. Mr. Tierney did not join the Repeal Association until the 3rd of October, 1843. If a conspiracy be already formed, and that person join it afterwards, that person is equally guilty as the original concoctors of that conspiracy. He is, gentlemen, equally guilty if he adopts the already-formed conspiracy. He did not, by any means, wish to impugn the doctrine of Mr. Justice Coleridge in the general way which he laid down the law, but when they had to consider and decide a question

relative to the Rev. Mr. Tierney, who did not, as it appeared, join the Repeal Association until the 3rd of October, they would have to say if he was to be visited with the previous acts of the association. It would be for them to say, and he would put this to them, if he (the Rev. Mr. Tierney) adopted the previous acts of the association, was he to be visited with punishment? They would recollect, however, that almost all the charges for conspiracy with which the several traversers are charged and put on their trial were, for the most part, committed before the 2nd of October; and the Reverend Mr. Tierney did not join the association till the 3rd of that month; and although the general way in which Mr. Justice Coleridge lays down the proposition which he alluded to, it would, as a matter of course, involve a party in the previous guilty acts of the association, although he did not join that association until at a late period; yet he (the Chief Justice) thought, in reference to Mr. Tierney, he would put that question to the jury; did that gentleman, at the time he joined the association, adopt the previous acts of that association—the illegal acts, if such a thing did exist—did he adopt those acts or not? He thought he might as well make those observations at that part of his address in reference to the case of Mr. Tierney as at any other time; for, on reading the judgment of Justice Coleridge, in the case of the Queen v. Murphy, it appeared to him that was the fit time to make such observations; and leaving any qualification that might be in Mr. Tierney's case to their consideration, let them pronounce whether such applied to Mr. Tierney's case or not. Now, they would come to the question of the traversers at large. He hoped they had taken down those observations with regard to the law, which he had endeavoured distinctly to detail to them. Those observations it was very fitting should be most distinctly understood, and not the subject of any doubt or misapprehension. Before he went into the observations upon this particular case, he should like to read to them certain observations, which he would adopt as his own, in a case to which the court was referred by Mr. R. L. Sheil, in his able observations on behalf of the traversers. He referred the court to the case of the King v. Kirwan, which was tried in the Court of Queen's Bench in Ireland, and to the able speech which he pronounced it to be of Mr. Peter Boroughs, who was counsel for the traversers on that occasion, their leading counsel, and Mr. O'Connell appeared to have been counsel with him. Now of Mr. Boroughs he concurred fully in the statement that had been made with regard to that very eminent man. He was an able and most constitutional lawyer; and he (the Chief Justice) believed he might venture to say of him, without going out of his way, that there was no man who ever appeared before the public to whom popular rights were dearer, or who more effectually exerted himself in behalf of the people at large. If he had a failing it certainly was not an aristocratical inclination against the popular rights; therefore, what fell from him upon that occasion when he made that speech to which Mr. Sheil referred them, was very worthy of consideration, and was not altogether inapplicable to the present case. In page 203 of the history of his address to the jury, he said this—"It is evident that to assume such a right, that is, a right to represent the people, or any portion of them, would be to encroach upon the exclusive privileges of the House of Commons; and no man can doubt but that to assume the character, and exercise the functions of any depart-

ment in the state, legislative, executive, or judicial, is and always was a high misdemeanor." He (the Chief Justice) subscribed to that position. In page 205, from the same speech, Mr. Borroughs went on to say, "Gentlemen of the jury, we are surfeited with visionary notions and republican declamation; we have lost our relish for the old. I hope not obsolete principles of liberty so cherished by our ancestors. From the abuse of things of the highest worth we begin to forget their value. This, gentlemen, is a most dangerous state, and a most permanent evil---every important invasion of right has been founded upon an abuse of that right, and has succeeded through the apathy created by such abuse. Let us not fall into this vulgar error---let us give to the government and the people their legitimate rights, and not suffer either to transgress. Few are the rights reserved to the people, or which can be reserved under a staple constitution. The legislature must be sovereign. To ascribe to it actual omnipotence is nonsense, but to ascribe to it relative omnipotence is rational. No power can question, or resist its acts while it exists; but, it is consistent with this acknowledged supremacy, of the reserved popular rights of a free press, and an unshackled right of petition. They are the great pedestal of our free and balanced constitution---impair either and it totters---withdraw either and it falls and crushes the people and their leaders. Do I say that these principles are incapable of abuse, and should not be contracted in their exercise by law? No; but I say that each should be exercised without previous restraint. Let every man publish at his peril---let no man dare exercise any previous constraint over him, but if he publishes a public or private libel, let the law punish him. In the same way suffer nothing to impede the presenting of petition; but if, under the pretext of petitioning, men should assemble and violate the law, vindicate the violated law." There were the sound and constitutional principles that were thus announced by that most eminent man and constitutional lawyer. He was now no more; yet he had left this behind him; and Mr. Sheil, he (the Chief Justice) thanked him for it, had referred him to that speech, in his very able address, as having his assent to the law then enunciated by that eminent man. Now, what was the law, the violation of which they were called upon to bring into judgment against the traversers---the law as it existed---the law as it had existed for the last forty-three years---the law as her gracious Majesty had, by her coronation oath, been bound and sworn to maintain. Now, he would read for them the coronation oath; or, at least, the commencement of it, as given in "Judge Blackstone's Commentaries," 244.---"The archbishop, or bishop shall say, will you solemnly promise and swear to govern the people of this kingdom of England, and the dominions thereto belonging, according to the statutes in parliament agreed on, and the laws and customs of the same? The King or Queen shall say, I solemnly promise to do so." What, with regard to this country, and the connexion with Great Britain, were the statutes which her Majesty was sworn by her coronation oath to abide by, administer, and preserve? They had heard a monstrous deal of assertions; they had heard a monstrous deal of declamation; they had heard a monstrous deal of complaints of grievances; they had heard a great deal of what the law ought to be; they had heard the jury called upon to decide whether such a law

ought to continue, as if they had power to alter it. The law of this realm, as it stands by the Act of Union until it was repealed, was the only law that they could take into their consideration in dealing with this case. It was the law which the Queen, by her coronation oath, had sworn to preserve, and it was idle to say that in violation of that law, the Queen, if she thought proper, might depart from that law altogether, call a parliament of her own in Ireland, of her own motion, in concert with the people, and set up a new law and a new constitution for this country, in direct violation of the Act of Union, which he was now going to state to them—the 40th of George III., the Act of Union between Great Britain and Ireland, “Whereas in pursuance of his Majesty’s most gracious recommendation to the two houses of parliament in Great Britain and Ireland respectively, to consider of such measures as might best tend to strengthen and consolidate the connexion between the two kingdoms, the two houses of parliament of Great Britain and the two houses of parliament of Ireland, have severally agreed and resolved that, in order to promote and secure the essential interests of Great Britain and Ireland and to consolidate the strength, power, and resources of the British empire, it will be advisable to concur in such measures as may best tend to unite the two kingdoms of Great Britain and Ireland into one kingdom, in such manner and on such terms and conditions as may be established by the acts of the respective parliaments of Great Britain and Ireland.” That act had been sanctioned in the same solemn way as the Act of Union between Great Britain and Scotland was 100 years before. The act went on to recite, “And whereas in furtherance of the said resolution, both houses of the said two parliaments respectively, have likewise agreed upon certain articles for effecting and establishing the said purposes in the tenor following:—Article first, that it be the first article of the union of the kingdoms of Great Britain and Ireland that the said kingdoms of Great Britain and Ireland shall, upon the first day of January, which shall be in the year of our Lord 1801, and for ever after, be united into one kingdom, by the name of “The United Kingdom of Great Britain and Ireland,” and that the royal style and titles appertaining to the imperial crown of the said United Kingdom and its dependencies, and also the ensigns, armorial flags, and banners thereof, shall be such as his Majesty, by his royal proclamation, under the great seal of the United Kingdom, shall be pleased to appoint.” In accordance with the passing of the Act of Union, the Kingdom of Great Britain ceased to exist, as did also the kingdom of Ireland, and instead of those two, there was formed one united kingdom, under the style and title of “the United Kingdom of Great Britain and Ireland;” and the idea of saying that the Queen of Ireland might be treated and dealt with as a Queen of a separate kingdom was absurd, and was seditious. Until the law was altered by the proper authorities—which he did not say but it might—but while the law remained as it was on that subject, and as it had been during the year 1843, and the preceding years that had intervened since the enactment of the Act of Union—there was one Sovereign over the kingdom who was incapable by himself, or herself, of treating with any class of his or her subjects, except the legislature, with regard to new constitutions or new laws, with respect to any part of the United Kingdom; and

he (the Chief Justice) said moreover, that whoever of the Queen's subjects would take upon himself to inculcate or to proclaim amongst the subjects of this part of the United Kingdom, that he or any body else abstractedly from the legislature a power, either separately or by himself, or jointly with other inhabitants of the same part of the United Kingdom---that he or they, independently of the legislature, had the power of treating with the Queen for an abrogation of the existing law, or to put in its place a new law, such as was suggested, was, or were guilty of an offence, that was, guilty of the crime of sedition; and if her Majesty were pleased to condescend to treat or negotiate with any person or persons separate from her parliament, for any of the purposes he had named, she had not the power to do so without violating her coronation oath. The second article of the Act of Union was as follows:---“That it be the second article of Union that the succession to the Imperial Crown of the said United Kingdom, and of the dominions thereunto belonging, shall continue limited and settled in the same manner and succession to the Imperial Crown of the said Kingdom of Great Britain and Ireland, now stands limited and settled, according to the existing laws, and to the terms of Union between England and Scotland.” Scotland as well as England, was a party to the act of union with Ireland. Article the third was---“That it be the third Act of Union that the said United Kingdom be represented in one and the same parliament, to be styled ‘the parliament of Great Britain and Ireland.’” The judges of the country were bound to administer the law as they found it constructed by the proper authorities. They were sworn to preserve those laws and to administer justice according to them. It would be productive of the wildest anarchy and confusion if any man, or set of men, abstractedly from parliament, were permitted to say, “we don't like the law as passed by the legislature; we think it was not properly passed, and that reason ought to have prevailed against it, and we therefore deem it no longer binding on our conscience to obey it”---any man who publicly inculcated that doctrine, was guilty of sedition. Then the fourth article went on to regulate the number of representatives, lords spiritual and temporal, which should henceforward be returned, and sit in these respective houses---so many for England, and so many for Scotland. It was provided for---it was an essential article of agreement upon the basis on which these great countries, England, Scotland, and Ireland, agreed together to resolve themselves as separate countries, and thenceforward become one great empire, under the denomination of the United Kingdom of Great Britain and Ireland. The eighth article went on to say, “And whereas the said articles having, by addresses of the respective houses of parliament in Great Britain and Ireland, been humbly laid before his Majesty, his Majesty has been graciously pleased to approve the same, and to recommend to his two houses of parliament in Great Britain and Ireland, to consider of such measures as may be necessary for giving effect to the said articles. In order, therefore, to give full effect and validity to the same, be it enacted, by the King's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons in the present parliament assembled, and by the authority of the same, that the said foregoing recited articles, each and every one of them, according to the true import and tenor thereof, be ratified

confirmed, approved, and be, and they are hereby declared to be, the articles of the Union of Great Britain and Ireland, and the same shall be in force, and have effect for ever, from the 1st day of January, which shall be in the year of our Lord, 1801, provided, that before that period, an act shall have been passed by the Parliament of Great Britain, for carrying into effect, in the like manner, the said foregoing recited articles." Which act was forthwith carried into effect. That was the law pronounced and ratified by the King, Lords, and Commons of both countries, and that was to be for ever the law of the land, which her Majesty the Queen had by her coronation oath sworn to preserve; and let no man presume to effect an alteration in that law by illegitimate or violent means—by threats or violence, or any other such shifts to be resorted to; but let him not be misunderstood. There was a way in which grievances, if they existed, were to be redressed and set to rights. They recollect the doctrine of that constitutional lawyer, Mr. Burrough, that "the omnipotence of the legislature must be acknowledged in any regulated state." Mr. Sheil required him, when he would charge the jury in that case, to advert to the doctrine of Baron Alderson, in his charge to the grand jury, in the case of the Queen v. Vincent, in the 9th "Carrington and Payne," p. 993; and he acquiesced both in his request and in the law upon the subject, as laid down by that eminent judge, by whom this charge to the jury was delivered. The Lord Chief Justice then read the charge cited by Mr. Shiel, in which are to be found the following words:—"So, in Mr. Hunt's case, which was tried at York, and afterwards came before the Court of King's Bench, Mr. Justice Bayley, than whom no man was more learned in the law, or more enlightened in his views, says:—"If the persons who assemble together say, 'We will have what we want, whether it be according to law or not,' a meeting for such a purpose, however, it may be masked, if it be really for a purpose of that kind, is illegal. If a meeting, from its general appearance, and from all the accompanying circumstances, is calculated to excite terror, alarm, and consternation, it is generally criminal and unlawful." This was what Mr. Sheil particularly required him to read, and he could not read one part without reading the whole. The learned judge then read that part of the charge in which he admitted "the right of the people to meet for the purpose of stating what were, or even what they considered to be their grievances; but in order to transmit, unimpaired, that right to posterity, it was necessary that it should be regulated by law and restrained by reason." There was not one word of that charge in which he (the Chief Justice) did not fully concur, and to which he was fully satisfied to subscribe upon that and every other occasion. They would remark what was said afterwards in the same case, when the learned judge came to charge the jury which were trying the defendants upon a bill of indictment found by the grand jury, to whom he delivered the previous charge. He said—"The indictment also contains charges of conspiracy, which is a crime which consists either in a combination and agreement by persons to do an illegal act, or a combination and agreement to effect a legal act by illegal means." That was the same definition which he had already given them. The learned judge then says—"The purpose which the defendants had in view, as stated by the prosecutors, was to excite disaffection and discontent; but the defendants say that their purpose was by reasonable

argument, and proper petitions, to obtain the five points mentioned by their learned counsel. If that were so, I think it is by no means illegal to petition on those points. The duration of parliament, and the extent of the elective franchise, have undergone more than one change by the authority of parliament itself; and with respect to the voting by ballot, persons whose opinions are entitled to the highest respect are found to differ. There can also be no illegality in petitioning, that members of parliament should be paid for their services by their constituents; indeed, they were so paid in ancient times, and they were not required to have a property qualification till the reign of Queen Anne, and are now not required to have it, in order to represent any part of Scotland, or their English universities. If, however, the defendants say that they will effect these changes by physical force, that is an offence against the laws of this country. No civilised society can exist, if changes are to be effected in the law by physical force. And if eminent persons have done as the learned counsel has stated, and their conduct were to come before us in a court of justice, we should (however painful it would be to be placed in such a situation) act towards them also exactly as we ought now to act towards the present defendants." That was the constitutional law laid down by this very eminent lawyer, Mr. Baron Alderson, beyond whom, no man was more highly respected in his profession, or as the ornament of a court of justice.

Mr. Whiteside.—I believe they were acquitted of the conspiracy, my lord.

The Chief Justice replied that they were acquitted of the conspiracy, and found guilty of attending unlawful assemblies; and proceeded to say that he fully concurred with the learned baron in both his charges; and, in that opinion he was happy to say that he had the full approbation of all his brethren. If the first part of what that learned judge he referred to said was misunderstood, let it not be misunderstood in what he (the Chief Justice) was going to say, namely, that if a man had grievances, or if a set of men had grievances, or thought or fancied they had grievances, it was no crime. It was no crime for a man to make a mistake regarding his political situation respecting a grievance. He had a right also to communicate his sentiments on the subject of his grievance not merely to his friends, but even to strangers. He had a right to make these communications and complaints wherever he went, if he thought fit; and even if he should attend a public meeting, however large that meeting might be (although in that respect it might be dangerous, owing to the consequences which might follow)—at those public meetings there was no reason why any man who had, or thought he had a grievance, should not make a statement of what he conceived he had to complain of, and upon the principles of free discussion endeavour to get, by peaceable means, as many allies and advocates in support of those alleged grievances as he could procure. That was the law, and the liberty of the law, as stated by Baron Alderson, in other words, who also said—"God forbid that the country should ever be without it." He (the Chief Justice) would say so too. In order to disseminate the knowledge of those grievances, he should even take care not to infringe upon the rights and privileges of others; and he was the more bound to be careful of the effect of what he did.

If the assemblies which he attended were congregated and assembled in such masses and multitudes so as to excite terror and alarm through and amongst the neighbouring people, or amongst those who were bound to preserve and watch over the frame and constitution of the country---if he goes with arms it is the more likely that the law will be infringed, but if he goes without arms---which is the case always here---it does not, therefore, follow that that meeting had been lawful. He (the Chief Justice) did not mean to say that the mere attending a meeting is unlawful; on the contrary, the mere attending a meeting, however large and numerous it may be, if no breach of the peace at the time, or immediately ensuing the meeting---he did not mean to say that so attending a meeting, under such circumstances, would be necessarily unlawful. He did not mean to say that it would be necessarily lawful. There was nothing in the mere fact of the assemblage of the people that renders that an illegal act. In order to make a meeting unlawful, it should not follow---though, in fact, the peace was not broken---that the parties should not, therefore, be guilty of the offence of exciting and creating terror and alarm amongst her Majesty's subjects. The meeting might, though the parties went to it unarmed, be attended with such a display of physical force as would reasonably excite terror and alarm among the peaceable subjects of her Majesty, whether there was cause for it or not, beyond the mere assemblage of these unarmed masses and multitudes of persons; and if persons were alarmed by these unarmed masses and multitudes of persons so assembling, the terror so caused would tend to render that an illegal assembly, for which the parties taking part in it would be answerable. However, it was not at all necessary that that should be the state of things in order to make the assembly unlawful. Suppose the parties went unarmed to these great meetings, and conducted themselves with great propriety and regularity, and that no breach of the peace, or even a tendency to a breach of the peace, was committed, all these facts might concur towards the establishment of the innocence of the meeting, and yet that very meeting might be illegal, and every party who went to it, and attending at it, might be made answerable. Suppose that the object of collecting together those thousands and hundreds of thousands of persons was not to commit a breach of the peace---suppose it was a more remote and ulterior object---suppose it was for the purpose not of terrifying the neighbours by what was done or intended to be done by the persons assembled at the meeting; but suppose that the parties who collected those masses and multitudes together, did so for the purpose of making an exhibition of immense power and physical force, guided and actuated by the will and the command of the person who had caused the multitudes to assemble---for no purpose of a present breach of the peace, but for the purpose of making an exhibition to those with whom he had to do---to those who were the legitimate, legal legislature of the country; and that the object of this person in assembling those multitudes together, in dispersing and recalling them, was to do that with the greatest possible notoriety; suppose he did this in the open day, where all the world could see and hear him, and that his object was to overawe the legislature who were likely to have to consider certain political subjects, in which he had his own views, and that he wished to prevent the legislature and the government of this country from forming a free and fully deliberative judgment



and opinion upon the subject ; if that was his object in causing and procuring that demonstration of physical force, that was unquestionably an illegal object, both in him and all who concurred and agreed with him in procuring the means to make such a demonstration. He had not said the traversers were guilty of this offence, but he was merely stating what was the law. He admitted the principle to the fullest extent, of full and fair discussion, of cool and deliberate consideration ; he even admitted that warm arguments sometimes, in support of political subjects, might not alone be admissible, but that they might be quite necessary and right for the information of all those who would have to deal with the subject in question, and to enable them to come to a conclusion as to the course which they should advise her Majesty to act in regard to it ; but he (the Chief Justice) would be glad to know were the parliament of the country—were the Queen's ministers—were those who were necessarily intrusted with the management of state affairs—were they to be the only persons in the country who were not to have the benefit of free discussion—the benefit of free, cool, and impartial deliberation?—were they to be deprived of fair discussion and deliberate judgment, and to be led astray by the intimidation of fear, or the demonstration of physical force? And if the legislature thought fit, in their judgment, to come to a different opinion upon the subject, or upon any other political subject, were they to be told that there were hundreds of thousands of fighting men, all peaceable, not guilty of any breach of the law, unconnected with any secret societies—warned not to bring themselves within the meshes of the law—but they were the finest physical force peasantry in the world, and standing number one in the class of nations; the government might be told they might differ from the leader of that people if they wished, but if they did so they should take care of the first step they took, for those masses, which were now dissolving like snow under his feet, would re-assemble at his call, and the government of the country might then see what they were able to do. Was that the condition in which the country was to be suffered to remain ? If the jury were of opinion that the object of these meetings were not what they professed to be—that the object was not state grievances, to enter into a discussion of them, and to lay petitions before that parliament, the legality of whose existence they denied ; if the jury believed that such were not the object, but that these meetings were convened for the purpose of procuring an object which they really had in view, by means of intimidation, and by overawing the legislature, then he was of opinion that the object was unlawful, and that every one concerned in these unlawful things was guilty of an act of conspiracy. He had already stated that the concurrence of two or more persons in the doing of illegal acts, or carrying an illegal object, constituted a conspiracy. Before he went to the consideration of the particular case of each of the traversers, he would make a few observations which seemed to him to apply to the case of all. The traversers, one and all, said that they were repealers—that was to say, that they were persons conscientiously entertaining the opinion that their object of repeal was that which was best suited to the interests of the country. They said that on account of the Act of Union they suffered grievances. He would not now give an opinion on that portion of their defence which had occupied the court for several

days--namely, the manner in which the Act of Union had been carried. It was now forty-three years since the Lords and Commons of the two countries passed that act of parliament, and by their concurrence the Act of Union continued in force up to this hour. Many acts of parliament had been passed during these forty-three years by the United Legislature. In the passing of these acts of parliament the members for Ireland, the members for Scotland, and the members for England, each had their share. They all voted, they had the opportunity of speaking, and the privilege of free discussion in the most extended sense of the word. Many important acts of parliament were passed by the United Parliament, and these were agreed to, not by each party as distinguished by their connexion with each country, thinking and acting for themselves, independent of the others--the entire parliament acted together in the passing of those measures, and he need not say, that amongst the most important of them was the Act of Emancipation, and he need not add, that no Roman Catholic in Ireland would stand in his present position, or exercise those rights which he deservedly enjoyed, were it not for the act of parliament which was passed with the concurrence of those persons who would be, if the Act of Union were void, incapable of passing that act. The Reform Act was a measure likewise passed, as were other acts connected with popular rights; and in the passing of the Reform Acts for England and for Scotland, the members for Ireland gave votes, and might have altered those acts as they passed through the legislature. If the proposition be true that the Act of Union was a nullity, and if Mr. O'Connell was right in proclaiming to hundreds of thousands of persons assembled at Mullaghmast and elsewhere, the result would be that Mr. O'Connell would have no right to sit in the Imperial Parliament, and no Roman Catholic would be entitled, as a free citizen, to the exercise of those privileges which he enjoyed as such. The traversers were all charged with seeking the repeal of the Act of Union, whether they were legally seeking it was for the jury to decide. There appeared to be an inconsistency in the steps taken by the traversers; for if the Act of Union be void, as was alleged, where was the necessity for seeking to repeal a nullity? The act could not be void and be also capable of being repealed. The two things were inconsistent. It was impossible to repeal an act previous to its being in legal existence. In the evidence adduced, it had been shown that Mr. O'Connell, a great many years, entertained strong grounded opinions against the principle of the Act of Union. In the year 1799, before the Act of Union was passed, he expressed his sentiments on the subject. He attended a meeting in Dublin, at which he made a speech, and exercised his right of discussion. But what had that to say as to whether he was guilty or not of what took place in 1843? What was said forty years ago was perfectly irrelevant to the present case. In the year 1810 he attended another meeting; that was ten years after the Act of Union came into operation. This last meeting was convened, not by irresponsible parties, but by the high sheriff of the city. It was attended, not by the masses of the people, but by a number of the most respectable citizens of Dublin. The freeholders and freemen were invited for the purpose of freely discussing what was best for them to do--whether they should concur in the policy and wisdom of the Act of Union, or come to a contrary

decision. Mr. O'Connell attended there, and publicly gave expression to his sentiments, without fear or control. He exercised the privilege of free discussion, as it was his right to do, provided that in so doing he abstained from offending anybody personally. But what had the expression of his opinion then to do with the case? He (the Chief Justice) confessed he never knew a man, or set of men, accused of crimes in 1843 seeking to justify themselves from that charge by a statement of what he or they respectively did forty, or thirty, or twenty years before; and that because what a man expressed in the way of political writing at one time might be given in evidence to show his intentions as to certain expressions used, or acts done by him twelve years after, as in the case of Horne Tooke, was it to be inferred from that that a similar course of proceeding was to be adopted here? Now, there was a wide difference between the two cases. Horne Tooke was accused of very questionable matter, both as to what he wrote and as to what he did, and he was permitted to give the construction of that questionable matter upon the principle of continuity of purpose, and to give a colour, perhaps the true colour, to the matter that was then tried by the evidence of his previous opinions and acts, though those acts took place several years ago. Speeches were made at a public assemblage convened by the sheriff of the city of Dublin, or he believed by the lord mayor. At this assemblage speeches were made, resolutions passed, and sent forward to the crown, and were presented by the city representatives. But what analogy had that to the case to which Mr. Daniel O'Connell had repeatedly alluded as having taken place in the year 1843. Were the meetings in this case convened by magistrates? Magistrates might have been at them, but were they convened magisterially? Were any of them? Not that he was aware of. Were any of them convened by the order and direction of the National Association? They had Mr. O'Connell's answer to that, stating the number of the monster meetings they had caused to be convened. The cases, therefore, were, in their existing circumstances quite different; but supposing that they were not so, after all, what was the meaning of the words "continuity of purpose?" He had no objection to let that go to the jury; it must go to the jury, and the traversers should have the full benefit of it. Now in the year 1843 there had subsisted for a considerable time, so much at least as three years before, an association in the city of Dublin, which was called the National Repeal Association. Sir Colman O'Loghlen was desirous that he (the Chief Justice) should take notice of this circumstance, and it was very right that the jury should take notice of it, that, in a short time, he believed in a few months after the institution of the Repeal Association, an improvement was made in its name by the introduction of the word "loyal," and from thenceforward it had borne the name of the Loyal National Repeal Association. Whether that was or was not of any importance, it was for the jury to judge. He did not mean to keep anything in any respect from the jury; he wished to submit all fairly to them, so that no portion of the facts should be kept from them. Now, at that association, Mr. O'Connell obtained and possessed unquestionable power—a power he would say, as Mr. O'Connell said himself, bordering on absolute. Now, during the time of that association, meetings were held at a particular parts of Dublin, where speeches were made from time to time

and addresses to the people of Ireland were promulgated from the rooms of that association, addressed to the people by Mr. O'Connell. The jury would see whether or not he did not take upon himself in all those addresses the position of leader of the people, to whom those addresses were issued. This had been given in evidence on the part of the traversers, and they were properly submitted to the jury, and deeply dwelt upon in order to show that from beginning to end there was inculcation of loyalty to the Queen, and a determination to support her prerogative—that there was from time to time, threatenings, advice, and direction; nay, he (the Chief Justice) believed, even command, to the members of the association, and to the people of Ireland, to abstain from crime, to join no Chartists, no physical-force men, or secret society; that whoever committed a crime added power to the enemy; and throughout all these addresses, and resolutions, which had been so given in evidence from the year 1840, when that association was instituted, until the beginning of the year 1843, there was a repetition of inculcations to the same effect. He was not aware now that he had omitted any thing favourable to the traversers as to the contents of those several addresses. He believed he had stated all fairly and fully, and therefore he did not think it necessary to call their attention to any details upon the subject, and more particularly, as it was admitted by the Solicitor General that for the period from 1840, to the beginning of the year 1843, he brought no accusation against Mr. O'Connell, the members of the association, or any of them. The crimes imputed commenced in 1843. Mr. O'Connell and the traversers said, generally, that they had, for the purpose of the association, sought to procure a repeal of the union in such a way as the law of the constitution allowed. The Solicitor-General said—up to 1843, I don't deny the proposition that you advance. The Act of Union you consider to be a grievance, and you have a right by freedom of discussion, and by petitioning the crown and the legislature, and in every other legal and constitutional way, to endeavour to relieve yourselves from that grievance, and thereby to procure a repeal of the union. But in the beginning of 1843 the crown says that a great change took place in the affairs of the Repeal Association, Mr. O'Connell at its head, and from thenceforth—whatever may have been their antecedent plan, of which he would say nothing—the means by which they attempted to effect the repeal of the union, if that was their object, became illegal. Now, it lay upon the crown to maintain that proposition, and to prove to the satisfaction of the jury that in 1843—the precise place and date was immaterial—that change took place. Mr. O'Connell said he was deprived of the means of proving an alibi. He had notice of the acts imputed to him by a bill of particulars, and the overt acts in the indictment. But without requiring the crown to prove the precise time or place, it was the duty of the jury to say whether they were satisfied from the facts laid before them, in evidence, that such a conspiracy did take place? The onus of that lay upon the crown, and the guilt so imputed by the crown should be established by satisfactory evidence of the existence of the alleged conspiracy, by a compact, or agreement, or common design between the several traversers, or some of them. If they were not satisfied of this, beyond any reasonable doubt, it would be their duty not to

convict upon presumption, for they were to convict only upon satisfactory proof, either direct or inferential. As he said before, the onus of the proof lay upon the crown, and that was another reason why he had not gone more into detail upon the evidence given on behalf of the traversers. It would be for them to say whether they were satisfied or not with the manner in which the crown had proved their case. [The Chief Justice then said that he would retire for a few moments to confer with his brother, Crampton, on a matter that occurred to him, and accordingly both the learned judges retired, but resumed their places after an absence of a few minutes.] The Chief Justice continued and said he thought there was evidence to support the statement, that some time in the beginning of 1843 a material alteration took place in the system and regulation of the Repeal Association. It had before that time become a great body—he meant in point of numbers, and he believed also very considerable sums of money had been received in the way of contributions from various parts of the country—from Great Britain, from America, and perhaps something from France, but he was not sure of that, and he would leave it out. The association had, previously to this date, a correspondence very much extended in its character, and ramifying through various districts of the country; but in the year 1843, proceedings were adopted for the purpose of rendering that system of communication more extensive and more efficacious. A plan was adopted for a new method of admitting persons who were desirous of becoming members of that association. Classes were created into which the members might be distributed, and under the denominations of which they were to be known. These classes were three in number. First, the general class called associates, and every person who subscribed one shilling a year was competent to be admitted an associate, upon obtaining a card of the society. The second class were members, and every person who subscribed 1*l.* a year was entitled to be enrolled amongst them. The third class were called volunteers, and those who subscribed 10*l.* or procured subscriptions to that amount from others, were entitled to be admitted as volunteers, and one and all of those persons would by a certain form be admitted into the society and enrolled in its books. Now, here was certainly a very strange—he was going to say a very formidable mode of organisation, which was adopted by the society in 1843. He thought Mr. O'Connell had said on more than one occasion, that in one way or other he had three-fourths of the male population included as members or associates of that society, and a little computation of numbers would show how large a fund—reckoning even at the low sum of one shilling each man—must have accumulated in the hands of the society by such a system. The society was planned and designed in such a manner as to extend all over the country, and he could not help saying that this system of collecting from each person a sum of money, of the application of which the parties subscribing knew nothing, but which was to be laid out in furtherance of the objects and motives of the society, whatever those objects might be, he could not help saying that such a system appeared to him to involve a dangerous state of things. About the same time effective resolutions were proposed and adopted with regard to the appointment of the officers of the society. He was speaking now, having regard to what could not be passed over in this case, on the question of organisation. There were appointed

## STATE TRIALS

about this time officers called repeal inspectors. The court and jury had no particular knowledge as to what those repeal inspectors were, nor was he aware of anything which gave them an insight into the nature of the duties which devolved upon that particular class of officers; but all he knew was, that there was evidence to show that repeal inspectors did exist, and that they were scattered through various districts of the country. But the mainspring by which the machinery was conducted, the grand plan that was had recourse to, in order to consolidate and direct the energies of the association, consisted in the appointment of what were called repeal wardens. Now, the repeal wardens, at least upon their present system, were appointed in the year 1843, about the time when the arrangement was made for the admission by cards of the several members of the society. The jury would see whether or not there was any discipline in the mode in which this part of the system was conducted. Those repeal wardens got their instructions from the association—they made regular reports to the committee of the success which attended their operations; and those repeal wardens, with the repeal inspectors, formed such an organised body as one might have said amounted to something like a very well regulated police. He did not call them police, however, he only called them, as the association did, repeal wardens—persons who were described by Mr. O'Connell, in his speech at Kilkenny, in August last, as men having the confidence of the association, and who were competent to act at the head of the people, somewhat in the same manner as serjeants over privates in the army. There was not a portion of Ireland where this system did not exist. The duty of the repeal wardens was to take care that there should not be in their respective districts a single male adult who did not become a member of the association, or, at all events, who should not be invited to do so. There was also another duty imposed on them. He had before him the instructions for repeal wardens, and he would state their duties from it, under the correction of the counsel for the traversers, and if they found him in error, it was right, for the ends of justice, that they should correct him. One duty imposed upon the repeal wardens was, that all the people in their districts should be furnished with newspapers; and there were in connexion with the association, three gentlemen, who were amongst the traversers at the bar, and who were editors or proprietors of certain newspapers in Dublin; he need not say what the politics of these papers were. The repeal wardens were to take care in their respective districts that a certain number of the associates should be furnished with newspapers—not the *Evening Mail*, or papers of that kind, but with papers, two of which were named, the *Evening Freeman's Journal*, the proprietor of which was Dr. Gray, and the *Pilot*, which belonged to Mr. Barrett. There were other papers named, and if a certain number expressed a wish, they might be furnished with another paper; but it should be of the same politics.

Mr. Fitzgibbon—Dr. Gray was proved to be proprietor of the *Morning*, not of the *Evening Freeman*.

The Chief Justice said he fancied it did not signify which, they were all of the same class.

Mr. Fitzgibbon—There is no evidence of the politics of the *Weekly Freeman*.

The Chief Justice continued--He had not said the *Weekly Freeman*. There was a choice allowed, but it was amongst papers of the same politics. The jury should consider what was the object in circulating these papers all over Ireland. The poor men who could subscribe a shilling a year, one farthing a week, were to be enlightened by disseminating these papers, and by having them read to them. The repeal wardens were also, instructed, if not inconvenient, to procure a reading-room in each district for members to assemble in, no doubt for the purpose of being initiated in the system of this society for the diffusion of useful knowledge. The governing principle which acted upon the entire was in Dublin, and the constant members of the association were there. When the jury came to view what was the nature of the indictment, they should keep these facts in their minds. They should recollect what was complained of was the existence of a combination by intimidation and physical force, to procure changes in the government and overawe the legislature. They would find the people in constant communication with headquarters, embarked in a common cause, guided by irresponsible persons in a way they knew nothing of; that is, they were under the unlimited control of the Repeal Association. The jury should recollect the nature of the cards which they possessed as signs and tokens. But he need not dwell upon them, as they had been so minutely gone into, and as they would have an opportunity of seeing them in their box. The common card was for associates; the green one for members; and the other was the volunteers' card, which was rather handsome. On all of them, for fear the members should not understand their nature, an explanation was given, written by a gentleman—I am not certain of his name, but he was the author of the "Green Book." They would afterwards understand the "Green Book," and its tendencies and they would have to consider it in connexion with the charge against the traversers of combining to corrupt the army. That author was the person who gave the explanations for the cards. Mr. Justice Perrin (the Chief Justice here observed) had corrected him. It was not the "Green Book" he should have alluded to, but another—in fact, to certain letters written to the army by the same person. The explanation of the green card was contained in a letter addressed to the secretary of the Loyal National Repeal Association of Ireland, and was said to be an explanation of the new members' card by the author of the "Green Book," and this was printed and circulated by order of the association on the 11th of April, 1843. It was printed by their direction, and at the bottom it was directed to T. M. Ray, Esq., as secretary of the association, and it was stated also at the bottom of the letter that the reading of the document elicited the loudest acclamation of the meeting. That document at that meeting was, on the motion of Mr. O'Connell, inserted on the minutes of the proceedings, and thus it became the act, to all intents and purposes, of the association. It was a very long document, and he did not wish to go through it all in detail for them, but they themselves would have an opportunity of doing so. They would see its bearing, and they would also see if it was what it really purported to be, an explanation of the card, or what the Attorney or Solicitor General stated it to be. He named the Solicitor General because his observations were more recent, and, therefore, must be clearer in the minds of the jury. It was, however, necessary for him to

enter on the question. They would see into its true nature, and that it was a statement emanating from—

Mr. Moore, Q.C., said, in case that document went to the jury, he wished it to be understood that it was not with the consent of the traversers' counsel that it would go to them.

Chief Justice—Oh! very well, Mr. Moore; if you object to it, of course I have no right to do so.

Mr. Moore—I make the objection now, because if I did not we might be open hereafter to a charge of not having objected in the proper time.

Chief Justice—Then I am not to assume, gentlemen, that those documents shall go before you, and that makes it the more necessary for me to make a few observations upon them. My intention in general is not to go into the minuteness of detail, but to give you a general but exact notion of what the documents are, and to leave the subject then to your consideration. If I mistake or mis-state the general objects, the gentlemen will, of course, correct me. As to the general object of this members' card—upon the face of it is inserted, in green colours, an enumeration of the powers, population, and ability of Ireland to have a parliament of her own, and concludes with a sort of chorus—"and yet she has no parliament." Now, whether she should have a parliament or not, does not depend on Mr. O'Connell, or on the association. He may, and I make no doubt does, in common with many, very many, who are of the same opinion with him, thing conscientiously that she ought to have a parliament. I don't dispute at all his entertaining that opinion. He and they have a perfect right to do so, but it is to be done by the regular constitution of this United Kingdom, the King, Lords, and Commons of that kingdom; and to disseminate on the face of those cards, that from its strength and consequence it ought to have a parliament, and has not one, that is taking upon himself, or the association taking upon themselves, to disseminate to every part of the country a statement of matters upon which they (the members of the association) have no right to make a decision. They may give their opinion, and circulate their opinions, and endeavour to support it. They have a right to state what they call their grievances; and if they can collect popular opinion in their favour on that subject, by fair and legitimate means, they are entitled to do it; but on the other hand, whether they are to enrol the whole country under officers and repeal inspectors, and give those cards, to be placed by those officers in the hands of those persons that they got together as conscripts, it is for you, gentlemen of the jury, to consider with what intention that is done. Is it with the intention of free discussion, and expressing their candid and deliberate opinion, or is it with a view of banding the people, amongst whom the cards are distributed, and amongst whom those newspapers are to be circulated, in favour of a particular form of political views entertained either by Mr. O'Connell or by the members of that association, and is that intention to be furthered with a view of promoting political free discussion, or is it intended to be promoted by the enrolling of additional members to be confederated in one general object, the nature and particulars of which they do not know, to which they subscribe, but the manner in which their subscriptions are to be applied, they do not know? Is it of that



latter description, or is it with a view to promote free discussion and inquiry?

His lordship intimated that he would postpone the remainder of his charge until morning, and the court adjourned.

### TWENTY-THIRD DAY.

The judges sat this morning precisely at ten o'clock, and the crown case and jury having answered to their names,

The Chief Justice said before he resumed his address to the jury, he wished to say a word or two regarding some expressions which had fallen from him on the previous evening, and which had reference to Mr. Fitzgibbon. It had occurred to him that he might, perhaps, have expressed himself rather strongly in reference to Mr. Fitzgibbon, but he begged leave to say that, personally or otherwise, he did not mean any disrespect to Mr. Fitzgibbon. He was called on to give some explanation with regard to the law of conspiracy, and the court having entertained different opinions on that point from Mr. Fitzgibbon, he thought it right to lay down that law and opinion in differing from the law as laid down by Mr. Fitzgibbon. He was called on to do so by the court, but he did not, in the expression of that opinion, intend to use any observation disrespectful to Mr. Fitzgibbon, personally or otherwise. Before he went on with the case he would take that opportunity of saying for Mr. Fitzgibbon's talents, industry, and arguments he had the greatest respect, and having said so much he unburthened his conscience with regard to any impression that might exist respecting Mr. Fitzgibbon, and he now proceeded with the case. [He then proceeded to address the jury.] He said on the previous evening he concluded by making some observations with regard to the act of appointing officers, &c., which it was proved had taken place by the association in the year 1843. He would now call their attention to those matters, as it appeared to him to have a considerable bearing on two of the questions that were submitted to them on the trial, and the evidence in the case. They had evidence of the fact; and he added that to what he said of the power of the association, and of its formidable character with respect to those who did not belong to its body, besides the income which it derived from several persons who might become members or associates, he would call their attention also to the further consideration of the large sums of money contributed from abroad and at home, which swelled the funds of the exchequer, as Mr. Duffy called it, of the association. They had it in proof that from day to day, and from sitting to sitting, that large funds were contributed from England, Scotland, and several parts of Ireland, and also very large sums of money from America; not only from America under the British dominions, who might have an interest in what was going on in this country, but also from the United States of America, which, in reference to Great Britain and Ireland, were foreign countries. Those sums of money were handed in in large amounts, and they had the incontrovertible

evidence of Mr. O'Connell, and the proceedings of the Repeal Association before them, that Mr. O'Connell spoke there of the forces he had at command, and acting under his controul, and that at one meeting he said he would take the opportunity the next day of handing in to the association several sums of money, amounting in all to about 1,100*l*, all from America, and for the purposes of the association. The association was thus provided with funds for the purpose of working out the ends and objects for which that association was formed. Mr. O'Connell and the other traversers made their case that it was all legitimate, inasmuch as they had a right to complain of the existence of the union as a grievance to this country, and that they had a right, by all legal and constitutional means, to get rid of it if they could. So far the Attorney General concurred with them; but the question between them was this, whether the means resorted to by the traversers be or be not illegal, or whether in pursuing their object in the manner they had adopted they had not agreed to transgress the law in the manner in which the Attorney General had charged them in the indictment under which they were then on their trial? As far as he knew the only legal means to obtain a repeal of the union would be by addressing petitions to the Queen, or to the parliament as by law established; nay, there might be more than that, there might be the introduction of free and fair discussion, to have the opinions which were entertained by the people generally on the question of the union. They had a right to extend their opinions on the subject, but to do that there must be nothing done inconsistent with free and fair discussion—no threats, no intimidation by means of physical force, for the purpose of intimidating the ministry or the Queen, who had the determination of public affairs in their hands, and still less should the traversers take the law into their own hands by their own act, and endeavour to alter the constitution of the country differently from that which was made by the Sovereign and legislature of that country. Having called their attention to the state of discipline to which they had brought the association, he would next see what their acts were in furtherance of what they called their legal intention of carrying their objects into execution. The next instruction was brought before the association on the 22nd of August, 1843, and was called "The Plan for the renewed Action of the Irish Parliament." He had, he said, already expressly told them, that, as the act of union remained unaltered by the proper authority—the Queen was bound by her coronation oath to support it—no set of persons had a right in themselves to attempt any alteration in that act, except those legally authorised—the Sovereign and the parliament of the country. Yet there was a plan for making new laws and a new constitution for that part of the United Kingdom called Ireland. It commenced by stating—first, that "the Irish people recognise, acknowledge, and maintain, and will continually uphold and preserve upon the throne of Ireland her Majesty Queen Victoria, whom God protect—Queen by undoubted right, and by hereditary descent, of Ireland, and her heirs and successors for ever." Now, said the Chief Justice, from the time of the passing of the Act of Union, up to the present, she had ceased to be Queen of Ireland. The King at that time was King of Ireland, but since the passing of that act he ceased to be so, and the title was swallowed in that of King of the United Kingdoms of Great Britain and Ireland; in fact, thenceforth the King or

Queen was King or Queen of Great Britain and Ireland. That process, therefore, was one for an entire alteration in the constitution of the country as by law established, and to propose, in lieu thereof, to place her Majesty on a separate throne, which could not be done without the consent of the legislature of the United Kingdom, sanctioned by the throne itself. The plan went on, secondly, to state, "That the people of Ireland acknowledge, and will maintain and preserve the privileges, hereditary and otherwise, of the peers of Ireland, together with the legislative and judicial authority of the Irish House of Lords." Now they (the jury) would have to say was that the language of a petition to the parliament and King or Queen of the United Kingdom, or was it a petition at all? Was it not rather a demand than the language used in a petition? Was it in the nature of a petition, or the demand of persons insisting on it as their right? Was it not a demand coming from a body which Mr. O'Connell had described as consisting of three-fourths of the entire people of Ireland, banded together by means of the association, for purposes of the nature of which many of them were ignorant, or at least did not distinctly understand what they were banded together for? The fourth plan, the Chief Justice went on to observe, was for the increase of county members. The sixth provided for a right of voting by household suffrage. The seventh provided for voting by ballot. The eighth provided that the monarch of England *de facto* should be monarch *de jure* of Ireland; and the ninth acknowledged the connexion between Great Britain and Ireland, by means of the authority of the crown, to be perpetual. He did not see how such a plan as that proposed by Mr. O'Connell, being, as it was, a direct violation of the coronation oath as at present existing, could possibly be carried into effect according to law or strict constitutional principle. It was impossible thus to repeal the union in the existing state of things. But there was a method by which the union might be altered if the legislative wisdom of the country, together with the crown, should think fit to adopt it, and if the parliament of the United Kingdom with the concurrence and sanction of the crown thought proper to pass a new act of parliament either repealing the union or modifying it as it at present stood with regard to the connexion between Ireland and England. Here was the legitimate mode of doing it; but as long as the law continued as it now was, there was the Queen's coronation oath to be violated, and the statute of George III. to be outraged before the plan laid down by the association could possibly be carried into practical effect. There was no attempt made to petition the Queen in this plan suggested by the association, nor was there any recommendation in it that the repealers should petition the united legislature—nothing whatever of that kind was suggested. This plan or manifesto of the association was put forward as the demand of the Irish people, organised and disciplined as they were, to have their objects carried into effect according to their own wishes and desires, by whom or how he (the Chief Justice) did not know, nor did the plan specify. However, this plan was laid before the association, and there was no statement whatever that it was rejected. What was the association doing in the meantime while this authoritative demand on behalf of the people of Ireland was thus placed upon the records of the association? They were engaged in a course of proceeding which he

would have it here for the jury to decide, whether it was a continuance of the same sort of system which was proposed and defined in this plan, or whether it was, as the traversers contended, a peaceful and constitutional mode of obtaining public opinion, and supporting the principle of free discussion upon public subjects. They thought right to have meetings held in different parts of Ireland. Now, these meetings were called by Mr. O'Connell by the appellation of monster meetings, and although it had not been admitted in that court that he or the association had convened more than a few of those monster meetings, yet it would be seen by the repeated declarations of Mr. O'Connell himself, out of doors, that he or the association had called all of them. It would be for the jury to say whether those meetings were held for the purposes of petition and free discussion, or whether they were called together in order to make a display of the physical force and powerful strength of the Irish nation, banded together by the ties of the association for effecting their objects by the agency of such means as had been imputed to them by the Attorney General. He did not intend to go through a detail of all these meetings which took place in various parts of Ireland, for they had all been referred to by the Solicitor General and Attorney General, and it was the less necessary that he should enter into such detail, inasmuch as that, with regard to the existence of these great assemblages, the monster meetings, there was no difference whatever between the crown and the traversers. Such meetings were assembled—were brought together—and that they did take place under the circumstances described was a matter upon which there was no difference whatsoever between the parties now at issue. He (the learned Chief Justice) was not inclined to lay much stress upon the fact of there being bands of music at these meetings. There were bands almost in all instances, perhaps in every instance, and these bands were in very great numbers, forty or fifty of them at a single meeting. There were flags, and banners, and inscriptions, but to all this he was not inclined to attach much importance. Although it was true that in some cases violence of expression might appear on some of their mottos and devices, they went but a little way to establish the crime imputed, namely, that the traversers intended, by intimidation and the demonstration of physical force, to overawe the government of the country. These bands were but a small thing in the consideration of this case, and were not, by any means, of considerable weight. They were something, no doubt, on the question of organisation and discipline—something contributing more or less to the existence of physical force, but they constituted, after all, but a slight ingredient in the case. The great and striking features in these meetings were the immense masses in which the people were collected, and the nature and violence of the speeches which were delivered to the assembled multitudes on that occasion. Generally these speeches were made by Mr. Daniel O'Connell, but that gentleman was not, by any means, alone or singular in being the person to address the meetings. There were other persons also, some of whom were included in the number of the traversers who took their opportunity for making their feelings known in the face of the assembled multitudes. It was for the jury to decide, from the tone and tenor of those speeches, whether they were delivered by men who

were acting in pursuance and promotion of a common design, and that a criminal one. From a few of those speeches he would take the liberty of selecting one or two passages for the consideration of the jury. The first he would refer to was the meeting which was held at Mullingar on the 15th of May. That meeting was attended by Mr. O'Connell and by Mr. Barrett, and he believed also by Mr. Steele, though he was not quite sure that the last-named gentleman was there; and, therefore, would not have the jury take down his name. But it was, at all events, clear that two of the traversers, Messrs. O'Connell and Barrett, were present. Now that assemblage was composed of a multitude of persons, amounting to hundreds of thousands, and in their presence, Mr. Barrett, in the way he was to suppose of free discussion on the subject of repeal, thought proper to express himself in language to the following effect. After some remarks, to which he need not more particularly allude, Mr. Barrett proceeded to observe—"With such a case—with such a leader—with the people and clergy on our side, who will despair?" Now he was reading this from the *Pilot* of the 15th of May, Mr. Barrett's own paper. Mr. Barrett could disarm whatever there might be of guilt or criminality, or violence in the speech, by the assertion, that what he uttered escaped from him unpremeditatedly and in the excitement of the moment—that it was a hot effusion—that it was possible that in the heat of the moment he might have committed a breach of decorum and good manners, but that the thing should be passed over, inasmuch as that it was not preconcerted or premeditated. But there was not a particle of evidence to show that Mr. Barrett's speech deserved to be so characterised. It was a deliberate speech; and not only did Mr. Barrett utter it at Mullingar, but it was to be presumed that he wrote it down, and when he arrived in Dublin he had it printed and circulated in his own paper, the *Pilot*. But to proceed with the extracts from this speech. Mr. Barrett then continued to observe "If Ireland has missed former opportunities of regeneration that is only a warning not to miss others. The moment has arrived; let us seize on the present, and take care that this neglected moment may not become the regretted past of a future day. Irishmen, proceed then in the mighty work before you (cheers). Persevere and you triumph—hesitate and you fall (cheers). To suppose you will neglect your present opportunity would be to suppose you would ungratefully neglect that cup of national independence and prosperity which Providence in its mercy seems at last to have presented to your parched and feverish lips (tremendous cheering)." To show what he meant by these feverish lips, he then proceeded to observe that "these meetings had already proved that Ireland was of one mind, and that mind repeal (cheers). Can they unpeel us by silencing us? No; we know, England knows, Europe knows, and the world knows that Ireland is united. How will they destroy that admitted fact or efface its record? We may be silent, but all the time it will be the silence of the old woman's cow (laughter). We shall be the devil for thinking. Yes, the silence of gunpowder, smooth on the surface, only indicating the depth of the waters beneath. We will crouch, but it will be the crouch of the tiger, ready to take a terrible spring, and clutch our independence. Come what may the die is cast, repeal must be successful. We have a leader worthy of our people, and a people

worthy of such a leader. "A people sober, forbearing, resolved and possessing all virtues which will enable them, by showing that they are worthy of national independence, to obtain it." That speech was delivered on the 15th of May. See how simultaneously the operations of the association, the meetings, and all these proceedings went on together. He now came to the *Pilot* of the 31st of May, and they would see that in that paper Mr. Barrett gave a report of Mr. O'Connell's speech at the great Longford repeal meeting. The jury remembered what was stated at that meeting by Mr. O'Connell with respect to an English Roman Catholic nobleman, Lord Beaumont. No doubt, a great deal of personal abuse had taken place on the part of Mr. O'Connell against Lord Beaumont, and very possibly (for Mr. O'Connell complained of it) some improper and abusive language might have been used, in England, on the part of Lord Beaumont in speaking of Mr. O'Connell. He (the Chief Justice) would not go into the particulars of the dispute between these two individuals; but he alluded to this speech as showing the opinions which Mr. O'Connell uttered in presence of the populace with respect to what he thought might take place in England if opposition were made by the government to his plan and that of the association. Hear him upon this point. The Chief Justice proceeded to read that passage from Mr. O'Connell's speech at Longford where he alluded to the sensation which would be created in the popular mind in England in case coercive measures were used towards this country. One of the counts in this indictment accused the traversers of endeavouring to excite hatred and discontent amongst the Queen's subjects, particularly amongst the Irish people against the English, but this was the first instance of which he (the Chief Justice) had heard—a definite and specific instance—which if believed must go directly in support of that charge. It would be for the jury to say whether they thought the use of such language as this a fair and legitimate mode of exercising the right of free discussion, and bringing the mind of the people to bear constitutionally on political questions. His Lordship having read Mr. O'Connell's observations upon the conduct of Lord Beaumont, continued: "What was this ruin of Ireland he spoke of: something existing only in the imagination of Mr. O'Connell, who framed and fabricated this story for the purpose of having its own effect. No such story ever existed; but it was a supposition, a kind of novel invented by Mr. O'Connell upon the occasion, and for what purpose. To have free discussion of the subject of the union, or have the passions of one portion of the people of this country excited against another, and violence and deeds of violence provoked by the introduction of unfounded and false stories of this nature. He said—"No, that blaze of powerful fire would be the destruction of England, and it would be announced in Ireland before the maddened and persecuted Irishman could have reached her shores." That was received with "hear, and cheers;" and that was the way in which stories of the kind were received by those multitudes of loyal men. He was now going to read to them an extract from another speech of Mr. O'Connell's, and it would be for them to say whether it was not of a piece with what they had heard before. On the 14th June, 1843, the *Freeman's Journal* (Dr. Gray's paper) which he had in his hand, and which was read in the progress of the trial---Dr. Gray, in his paper of the 14th of June, had thought proper to publish a speech of Mr. O'Connell, at a dinner at Mallow, which took

place about two days before. [His lordship here read extracts from Mr. O'Connell's speech, which were previously published, and then proceeded.] The word "Enemy" occurred very often throughout this case, and appeared to have been used in several speeches of Mr. O'Connell; and the latter traversers. Whether it be the word enemy, or the contemptuous word Saxon, it would be for them to say, or to whom it was to be attached. Could it have a meaning of any other description than the English? As he, before observed, not only at the association, but, he believed, at all their public meetings, there was a most industrious inculcation not to violate the law. "He that commits a crime gives strength to the enemy." That was the maxim—that was the motto; and it would be for them to consider whether upon the whole of the conduct, and demeanour of the parties upon those occasions, they had in view peaceable behaviour, or whether these warnings and advices were for the particular purpose of restraining all violence until the time should arrive when they should be prepared to make such a demonstration as circumstances would then suggest. He said, also, that "the first use they would make of their success would be to place the sceptre in the hands of their youthful Sovereign." What power might had they to place the sceptre in her hands?—"It is not an imaginary war at all, for the only Englishman that ever possessed Ireland sent 60,000 Irishmen to work as slaves, every one of whom perished in the short space of twelve years beneath the ungenial soil of India." That was not very conciliatory as between Ireland and England. "Yes, Peel and Wellington may be second Cromwells; they may get his blunt truncheon, and they may, Oh! sacred Heaven!" Now, this paper he (the Chief Justice) was reading down as far as it was read by Mr. Fitzgibbon.

Mr. Fitzgibbon—Your lordship is under a mistake. It was the crown that called for the *Pilot* of the 14th.

Chief Justice—I have it in my own handwriting that this was read by you.

Mr. Fitzgibbon—I think you are under a mistake.

Chief Justice—Pardon me, I cannot agree with you as to that.

Mr. Fitzgibbon—My learned friends all agree with me, my lords.

Chief Justice—I may mistake, but it is very extraordinary that the contrary should appear in my own handwriting.

Mr. Close—I took a very careful note of the evidence for the crown, and I took a note that Mr. Verdon was called on to read from the *Pilot* of the 14th of June, the account of the Mallow meeting, of the proceedings which are said to have taken place, and the speech delivered by Mr. O'Connell at a subsequent part of the day, at what was called a banquet.

Chief Justice—Well, Mr. Close, I may be in error, as everybody is liable to be; but I say there is very little likelihood, for I took it down in my own handwriting by whom the paper was read and proved.

Mr. Fitzgibbon—What I wish to be understood is this—the fact that I did not call for it.

Chief Justice—I will not dispute the matter with you, but take it as proved by the crown and not by you. The fact, however, is equally a proof, no matter by whom it is read. The learned judge then proceeded

to read Mr. O'Connell's speech from where he left off—"And they may, Oh! sacred Heaven, enact on the fair occupants of that gallery (pointing to the ladies' gallery,) the murder of the Wexford ladies, (cries of oh, oh.) But I am wrong; they never shall, (tremendous cheering, and waving of handkerchiefs.)" This was all peaceable discussion! "Gentlemen, what alarms me is the progress of injustice. That ruffianly Saxon paper, the *Times*, presumes to threaten us with such a fate; but let it not be supposed that it is a flight of my imagination when I tell you that three hundred ladies, the beauty and loveliness of Wexford, the young and old, the maid and matron, when Cromwell entered the town by treachery, were collected round the cross of Christ, erected in that part of the town called the Bull Ring; they prayed to Heaven for mercy, and I hope they found it; they prayed to the English for humanity, and Cromwell slaughtered them, (oh, oh, and great sensation.) I tell you this; three hundred of the grace and beauty, and virtue of Wexford were slaughtered by the English ruffians, (tremendous sensation, and cries of oh, oh.) I am not imaginative when I talk of this." What was the meaning or intention of the introduction of a story of that nature. Was that for the purpose of free discussion upon a political question, or was it for the purpose of exciting by those details and statements, whether true or false, the animosity and hatred of the Irish against the English? "I am not at all imaginative when I talk of this, but yet I assert that there would be no danger of the women now; for the men of Ireland would die to the last in their defence (here the entire company rose and cheered for several minutes.) We were a paltry remnant then, we are 9,000,000 now." That was not the only place where the assembled multitudes were treated with stories and statements of such horrors and such profanations committed by the English against the Irish. Amongst other very remarkable meetings which were held under the auspices of Mr. O'Connell, and those who go with him, was a great meeting which took place at Tara, in the county of Meath, on the 16th of August last. The meeting at Tara appeared to have been one of particular veneration, and the place was selected upon account of the statements of history connected with it. Captain Despard, the stipendiary magistrate, who attended that meeting, supposed the number of persons assembled there to be 300,000. At the association Mr. O'Connell, and those in the interest of the association, described the number as infinitely more—some maintaining that there were a million of persons, and others, and he believed Mr. O'Connell himself, said there were a million and a-half. The people so assembled were addressed by Mr. O'Connell and others. There was a dinner, as there had been elsewhere where those monster meetings had been held, "*Pluvia epota me non praudente*," and they (the jury) would now see some of the way in which the conviviality of the evening was enlivened by the speech of Mr. O'Connell. He began by calling himself "the leader of the Irish people." That was the position he had assumed. At the same meeting Mr. O'Connell spoke and said—"I may be asked why not then rush to the conclusion at once; that having physical power surrounding me, and addressing for the last six months, an infinitely greater number than any conqueror ever had. The master of thirty legions had not more physical power at his command than I have had for the last



five or six months. I may be asked why I do not use it? My reply is, 'Yes, I will use it, not abuse it.' I have demonstrated that I have more men of a fighting age (why should I not use that word) ready to stand by their country than ever evinced that determination before. Could they doubt that these multitudes assembled for the purpose of intimidation, for the purpose of overawing the legislature, for the purpose of letting the ministry see, and know, and hear of, not his peaceful arguments upon behalf of free discussion, but the statements of the power he held in his hands. "I say to England we will use no violence—we will make no attack—we will reserve our force for defence; but attack us if you dare, what is the answer? We do not intend to attack you, and you need not set us at defiance. My reply is the school boy's—thank you for nothing says the gallipot. But then they say, how can you carry repeal? If you take a single additional step, we will go to law with you. My answer is, that I am an old lawyer—and the proverb says, you can't catch old birds with chaff, and they are not able to beat an old lawyer with chaff, at all events. I set your chaff at defiance, and will take the next step in spite of you. We are appointing men to act as arbitrators in the rooms of the magistrates who were struck off; and those who are left in the commission who are infinitely worse. Last year Goulburn took off the duty of arbitration, as if he actually had seen what was coming; and the old Daniel O'Connell did also then and there so speak to the substance and effect following—that is to say, "I have them there; and do they think they will catch an old bird with chaff? You will see in the newspapers a report of the first court of arbitration which will sit on Friday next, Dr. Gray in the chair. It will sit every Friday afterwards—they will spread through the country. We have had a number of applications for the establishment of courts in various parts of Ireland, and I am convinced that it will work well; disputes which now fester and rankle in a village will be settled amicably; it will spread further; I will apply the principle to a higher class of cases; we will appoint arbitrators for everything the people may choose; and I trust before I am twelve months older to take half the business out of the superior courts. This is laying the basis of a judicial system, and, above all, it is safe—I defy all the crown lawyers to find a flaw in the plan."—What is the law upon the subject? Whoever or whatever interferes with the Queen's prerogative, judicial or otherwise, is guilty of a high misdemeanour. "This is laying the basis of a judicial system"—"the appointment of courts by us," not by the Queen; and above all, it is said—"I defy all the crown lawyers to find a flaw in the plan." It was not necessary for him to discuss the law with Mr. O'Connell; he kept the law for the jury. Here was another proof of what he and his multitudes were doing, independent of the power of the legislature. The learned judge then referred to that part of Mr. O'Connell's speech, in which he said, "it was only necessary to put a bit of wax at the end of a piece of parchment, and we shall have a parliament at once." He and the Queen, he (the Chief Justice) supposed, going in concert together, for the purpose of violating her coronation oath. Again, he said; "We are to have an association which is to meet by chance in Dublin, I hope, before the year closes, but at all events, I am sure, early in the next, three hundred gentlemen will find themselves together in Dublin by one accident or another."—How this

was to be done he could not tell, except by a temporary loan of the lamp of Aladdin." Again, he said,—“ The newspapers have described how this is to be done. I never take advice from newspapers in matters of law. I am glad to take facts from newspapers, and I am happy to say that no country in Europe has a more honest and powerful press than we have in Ireland. One thing that shows we are in the right road is the amount of talent possessed by the liberal press ; but I will not take my law from them. Without going into the convention act, or any other act, I say, at the time I have stated, we shall have three hundred gentlemen assembled, ready to enter into immediate negotiation with the British minister, to show him the state of Ireland—to show him our further resources—to show him that we could paralyse the entire state, and that it would be done by nothing but sowing more potatoes, and leaving the harvest to rot in the field, except the poor man's part, the potatoes, to show him that we have physical power, and that if assailed we will use it. I have more projects in my mind, but I will not speak of them now, by which I can checkmate the government tranquilly and quietly. It is avowed that proud England dare not assume an attitude of menace towards any state in the world, however insignificant. The English government can no longer threaten ; alas ! it cannot exert itself in necessary defence. It is weak because it has withered the strong arm of Irish affection. The hundreds of thousands of enthusiastic people have now gone quietly to their homes.” That was the way in which he described those multitudes. He then repeated a story, which he appeared to have often before detailed, of 300 women having been “ butchered in Wexford by the ruffianly soldiery of Great Britain,” and thus excited the minds of these hundreds of thousands of people, and even more than intimated that such scenes might occur again. “ Even Tara Hill,” he said, “ was stained with human blood, and the bones of the murdered people were not yet mouldered ; and if it was now announced that some paltry Orangemen were armed, and that foreign soldiers were brought over to butcher, slaughter, and dishonour the Irish women—would the people submit to it ? or would their feelings be found to have melted away like snow ?” It was Mr. O'Connell's practice at most of these meetings to ask the assembled people to obey him whenever he should think proper to call upon them ; and the Tara meeting was one of the occasions on which he intimated to the assembled people that he was sure their feelings would not be found to have melted away like snow if the English army again came to this country ? What was the meaning of the language in those speeches ? What was the object of it ? What was the meaning of those displays ; those statements of physical force ? Nine millions of people joined with us ?” that was what he said in express terms. What was the meaning of that ? That was for the jury to say. He (the Chief Justice) had now detailed to them the statements made by Mr. O'Connell on the occasion of their several monster meetings, and he now came to the facts with respect to the meeting held at Clifden on the 17th of September. There were many meetings held on or about the same time, but he did not think it necessary to go through them ; he would pass over, without commenting on them, the meetings held at Donnybrook and Loughrea. The notes of the proceedings at the Clifden meeting were supplied by Mr. Ross, who attended there on behalf of the crown. There was, as usual, a great

assemblage, and they were attended by a numerous body of persons on horseback, whom they found were denominated by Mr. O'Connell as "mounted cavalry," of which, at the time, Mr. Steele appeared to have taken the command, for the purpose of forming them into order. There were speeches made in the morning, and there was a dinner, as usual, at which Dr. Gray attended and made a speech. It was not a very long one, but it contained, amongst others, this statement: "When I go back to Dublin, I shall tell them that the people of Clifden are determined to part with their lives before they will desert the cause of repealing their country and themselves, and they will stand boldly by their colours. Let no tyrant landlords or agents cause you to flinch. Who is the man who dares come forward and say he will eject you because you are repealers? Oh! you are too strong for that now. Rely on your friends and be not by artifice or trick drawn from the position you have assumed. Let peace, law, and order, be your motto, and you are sure to succeed." Mr. O'Connell further said, "before I have done with them, the demonstration of physical force and the giant power of the people will be complete--their discipline will be completed," and then he went on to describe the admirable manner in which "the cavalry" fell in and took their stations side by side "at the word of command of Tom Steele," and, said Mr. O'Connell, "I don't think the Lord Lieutenant ever was obeyed half so cheerfully as he was. The people of Ireland are morally and regularly disciplined---their universal voice is shouting around me---I have within me nine-tenths of the nation, and that portion which is opposed to me is in a state of delusion from which they shall soon be roused; I have three-fourths of Ulster with me, and how delighted am I with the testimony that Connemara has afforded me of the increasing confidence of the people." There was the language used by these gentlemen at that assembly at Connemara. It was for the jury to say whether it was the language of calm and reasonable discussion, or whether it was not the result of the boldness of a man exulting in the power, the "giant" power of the Irish people which he said he had at his beck and under his control. If an individual was thus to proclaim the power he had in order that it should be exhibited to the English ministry as Mr. O'Connell himself said, was not that intimidation? [His lordship then called the attention of the jury to Mr. Jackson's evidence relating to the meeting at the association on the 29th August, 1843.] The jury would see, as they were the proper judges of the facts, whether the language, as sworn to by Mr. Jackson, was not consistent with the same sort of threats and intimidation which had been used by the traversers upon other occasions. Mr. Jackson swore that Mr. O'Connell at that meeting said, "If the union was not dissolved in his time, he much feared that a sanguinary struggle would hereafter lead to perfect separation." Was that the language of fair discussion? and it should be remembered that no imputation whatever was cast upon that part of Mr. Jackson's evidence. It was said there was a mistake in the next sentence, and therefore he (the Chief Justice) would not read it, because it was not fit that any evidence of a questionable nature should be laid before the jury. He next came to a subject of very great importance, the Mullaghmast meeting; and with what he would close what he had to say upon the subject of these meetings. The Mullaghmast meeting, it should be remembered, was held on the 11th of

October, some time after the delivery of the Queen's speech upon the prorogation of parliament. That speech was not in evidence further than this, that the fact of its having been adverted to in the speeches of some of the traversers, and further than that the jury were not to take part of the evidence into their consideration. Her Majesty's speech dissolving parliament was delivered on the 25th of August last; in some short time afterwards it was determined at the association that another great monster meeting should take place at Mullaghmast, in the county of Kildare; that meeting was expressly and particularly got up under the immediate direction of Mr. O'Connell and the association. Brown, the printer, who was examined, proved that the documents produced were printed by him under the immediate direction of Mr. Ray, the secretary of the association, and that he printed what was called the yellow placard, calling the people of the province of Leinster to attend at that meeting. Now, the jury should observe the language of that document. It began, "Leinster for Repeal---Men of Leinster to Mullaghmast---the province will declare for Repeal"---not that they would petition but "declare." [His lordship then read the remainder of the placard, and continued]---Nobody can doubt but that there was something of military diction in that language---it was not equivocal. Thousands upon thousands assembled there equal in point of numbers to the vast oceans of people assembled upon the hill of Tara---overwhelming numbers. They came there, as the placard announced, attended by bands, and the cavalry mustered at the place where it was appointed for them to meet---they assembled at an early hour of the morning because millions or thousands upon thousands could not be brought together at a moment's notice, and it took a long time to bring together such an extraordinary demonstration of physical power. They came there attended by flags, bands, and banners, a great number of which had inscriptions upon them; and in the morning there was circulated at Mullaghmast a particular publication, which also had a direct reference to the subject, for it called on the people "to remember Mullaghmast." Now the jury would also remember that the document he alluded to was proved to have been circulated to the amount of thousands (at least the witness said 2,000) about the different parts of that place where the meeting assembled. It was also in proof that multitudes came from Dublin, and hundreds of them with wands and repeal tickets stuck on their hats, with the designation marked on them "O'Connell's Police"---of the efficiency of which they had all heard a great deal, as to their preservation of the peace, &c., which was to say, that peace which consisted in the absence of it; but how far it consisted in the absence of what was criminal was another question. Now, these papers, giving a description of Mullaghmast, were extensively in circulation, to the number at least of 2,000. However, it was said---"Oh, that paper was not printed by Mr. Brown, and is not, therefore, to be taken as one of those badges that were circulated for the purpose of the meeting," but how did it happen that in no one instance did those celebrated police of Mr. O'Connell's attempt to stop their vending and circulation; 2,000 copies of that document could not have been circulated without the knowledge of those police, and was it proved in evidence that there was a hand lifted to prevent the circulation of that infamous publication. He (the Chief Justice) would

read what that publication was, from which he would see if it contained anything inconsistent with the scene of bloodshed and war proclaimed by Mr. O'Connell at Tara, Mullaghmast, Lismore, and other places, and they could judge if there was any inconsistency in the statements made in it, and those made in the speeches delivered at Mullaghmast by Mr. O'Connell, Mr. Barrett, and the other traversers charged with the conspiracy. It was headed "A full and true account of the dreadful slaughter and murder," and went on to say, "The fate of those slaughtered martyrs is calculated to brace the sinews and raise the mind of every Irishman to desperation. Their blood yet cries to heaven for vengeance, &c." The learned Chief Justice proceeded to read the document at length, and which purported to be an account of the slaughter of 400 Roman Catholics by Protestants upon the Rath of Mullaghmast, whither they went under the protection of the olive branch of peace, and proceeded to say that this was the conciliatory, argumentative, peaceful, and tranquil way in which people assembled, and in which they came prepared at those meetings. He had said that no attempt was made by Mr. O'Connell's police to prevent the circulation of that placard. Now, so far were they from putting down, or attempting to put down the circulation of that story---that horrible statement---it would be found in the speeches made by Mr. O'Connell; one made to the assembled multitude and another subsequently at the dinner or banquet, not exactly in the same words, but in substance and spirit the same, delivered by him to all who came within his hearing. What object had he---what object had they who attended him on this occasion and took part in the deliberations in repeating, in language of their own, the very same sentiments? The history of what took place at Mullaghmast was given by an unimpeached witness, Mr. Bond Hughes. Among the several inscriptions on the banners, were---"The man who commits a crime gives strength to the enemy." That was a favourite motto. "Ireland must be a Nation," "Repeal---a country with nine millions of inhabitants, is too great to be dragged at the tail of any nation." Was that an argument, or was it a threat? There were a great many men with white papers in their hats, on which was printed "O'Connell's police." These men, it appears, were appointed to keep order. There were several other inscriptions and matters which he (the Chief Justice) did not think it necessary to state. Mr. O'Connell addressed the people from the platform. The Chief Justice proceeded to read the speech of Mr. O'Connell at Mullaghmast, in which he said---"At Tara I protested against the union. To-day, I repeated the protest at Mullaghmast. I declare solemnly my thorough conviction as a constitutional lawyer, the union is totally void in point of principle and constitutional force." That was Mr. O'Connell's assumption in presence of assembled thousands. Mr. O'Connell then indulged in the abuse of several of the ministers, which he would not repeat. The Chief Justice continued to read further from the speech as follows---"It is a lie; there is no disaffection. I am obliged to them for that speech, because it gives me, among other things, the pleasure of addressing this assemblage to-day. I thought the monster meetings had demonstrated the opinion of Ireland; when the Queen's monster speech came out I saw that it was necessary to do something more---accordingly, I called meetings at Loughlinch, at Clifden,

and at Lismore, and here we are now assembled upon the Rath of Mullaghmast (cheers.) At Mullaghmast—I chose it for an obvious reason. We are on the precise spot on which English treachery, aye, and false Irish treachery, too, was consummated." The speech then went on to say, that a greater massacre had not been committed on the Mamalukes by Mehemet Ali, than was committed at Mullaghmast. The learned judge read another extract, and proceeded:—How was this to be accomplished? What machinery was he to have recourse to to bring about the establishment of a new Irish House of Commons in three weeks? Was it to be done by physical force, or was it to be done otherwise? He then goes on to say: "You will see by the newspapers that Dr. Gray, and my son, and other gentlemen, held a petty sessions of their own; it cost the people nothing. We will have chosen men of our own, in the room of magistrates whom they have unjustly deprived us of; we will submit all our differences to them, and will endeavour to do justice to all parties, and it will not cost you a single farthing." That was the reason he gave for setting up the arbitration courts, not with any view to the prevention of, or putting a stop to the practice of administering oaths; not with any view to assimilate themselves to the peaceable practice of the Quakers; not with any view to assimilate themselves to the established practice of the Ouzel Galley of Dublin, who acted under a process derived from the superior courts. But his object was to put into those arbitration courts the magistrates who were dismissed by government for attending repeal meetings. The speech then proceeded "I shall go on with that plan until we have all disputes settled and decided by justices appointed by the people themselves. I wish to live long enough to have perfect justice administered in Ireland, and liberty proclaimed throughout the land. It will take me some time to prepare my plan for the formation of the new House of Commons; that plan which we will yet submit to her Majesty, for her approval, when she gets rid of her present paltry administration, and have one that I can support. Let the English have England, and the Scotch have Scotland, but we must have Ireland for the Irish. I will not be content until I see not a single man in any office, from the lowest constable to the Lord Chancellor, but Irishmen. This is our land, and we must have it. We will be obedient to the Queen, joined to England by the golden link of the crown; but we must have our own parliament, our own bench, our own magistrates, and we will give some of the shoneens, who now occupy the bench, leave to retire." What he meant by shoneens, he (the Chief Justice) did not know. "In 1798 there were some brave men—some valiant men to head the people at large, but there were many traitors, who left the people in the power of their enemies. The Curragh of Kildare afforded an instance of the fate which Irishmen were to expect who confided in their Saxon enemies. Oh, it was an ill-organised, a premature, a foolish and absurd insurrection; but you have a leader now who never will allow you to commit any act so foolish, or so destructive." At the conclusion of the morning meeting, a resolution was passed to the following effect; and, gentlemen, you will see whether that is language in unison with sentiments usually and openly expressed by Mr. O'Connell, or whether they were evils calculated to excite the minds



effect would be precisely the same." His lordship then read Mr. O'Connell's speech in continuation, and called the particular attention of the jury to the expression—"the peaceful uprising of the masses," and one or two similar strong sentences in Mr. O'Connell's speech, such as "the administration of the law we want to get from the hands of the enemy"—"the arbitration courts are working well, and we (meaning the people,) have already judges selected by ourselves." "I want to show the nations of the world that we are capable of doing our own judicial business, and that we don't want the Saxon or the stranger." "We will administer law without bigotry, in the spirit of equity and justice; we will do impartial justice to every one who approaches our tribunals." Then Mr. O'Connell dilated upon the slaughter at Mullaghmast, and, after reading this part of the speech at full length, his lordship asked whether Mr. O'Connell's statement was not exactly identical with the story which was circulated and sold at the meeting? After reading the remainder of the speech with reference to the alleged slaughter at Mullaghmast, and descriptive of the perfidy of the Saxons, the Lord Chief Justice asked the jury whether they could for one moment suppose that such language as that was fair discussion? Was it not, on the contrary, language calculated to produce excitement of an extraordinary kind—excitement produced by the repetition of stories, the truth of which the person who warranted them could not be a judge of. Instead of being the fair sample of legitimate discussion, was it not a proof of hatred steeped in the diffusion of the gall of bitterness? It was to be recollected that that was the second speech in which Mr. O'Connell had introduced that exciting topic upon that same day—that he had chosen and nominated that place for the purpose of bringing before the assembled multitudes the recollection of the alleged barbarities and atrocities committed of England and "the Saxons" towards Ireland. That was the place chosen to bring together and make a display of the greatest number of men who had been assembled at any of the monster meetings, with the exception of Tara, where there were assembled a million and a half of persons. What object was that? What object had those who accomplished the holding of those meetings? There was some evidence of their design in what took place at the meeting at Tullamoore, the evidence of which was given by an apparently trustworthy person named M'Namara.—That witness, after describing generally the masses assembled, the banners displayed, and the arch which was taken down by the orders of Mr. Steele, and which he would not further detail; also what occurred at the meeting when Mr. O'Connell joined it. He said—that the Rev. Mr. Kearney moved that a petition should be prepared for a repeal of the union; but there was no evidence that it had ever been prepared; and, however a design might be masked and concealed, it was the duty of the jury to see what the real character of it was. The Chief Justice then read an extract from the speech of the Rev. Mr. Kearney, and observed that Mr. O'Connell did not deny one opinion expressed in it. The Chief Justice then read extracts from the speech of Mr. O'Connell at the same meeting. The next speech that was delivered by one of those gentlemen accused of this conspiracy at the meeting at Mullaghmast was by Mr. Ray. It had been said by his counsel that he was only the servant of this association, a hired servant and earning his wages. If it was so, if that



was all poor Mr. Ray did, he would say at once that he was just as guilty as if he was not the secretary of the association at all. His receiving wages from the association, if he did so, no more entitled him to commit a crime than if he held no situation of the kind. It might as well be said, he did not know if any of them were old enough to remember the case of Scotch Andrew, but it might as well be said he was not guilty of the murder of Mr. M'Donnell because he was in the service of his master, Mr. Fitzgerald, and acting under his orders; but yet Scotch Andrew was tried, and convicted, and executed for that offence. Now, here was Mr. Ray not confining himself to the duties of his office as secretary. [The learned judge here read an extract from the speech of Mr. Ray.] There were three of the traversers whose speeches he had read—Mr. John O'Connell was the fourth, and Dr. Gray was the fifth. Doctor Gray spoke in reference to his peculiar part of the details of this general system—setting up courts of their own appointed by the people and not by the crown. Dr. Gray said the people saw there was great sincerity in their common cause; they would observe that expression—the common cause. He was proud to return thanks on behalf of the judges appointed by the people—for the first time the peoples' judges. For a long time they had been ruled and trampled upon, and governed by aliens and enemies. Did he mean the courts where justice was administered by the judges appointed by the crown. That would conclude his reading the observations upon the day of Mullaghmast. A most important meeting it was; more, perhaps, than any other that had taken place, as exhibiting to them, and to those who were to decide on this case, according to their sound judgment and truth, what were the real intentions of the several persons that are accused of having entered into this alleged conspiracy and common design. The existence of the general design entertained and inculcated by the speakers upon that occasion, exciting the discontent, hatred, and animosity of the people of Ireland against the people of England, by calling up by-gone scenes and offences, the truth of which cannot be ascertained, but, which, if ever they did exist, it was, to say the least of it, gratuitously now to bring them forward upon the public mind. There were present, who took an active part in that meeting, Mr. O'Connell, senior, who made two speeches—Mr. O'Connell, senior, who selected that place because it was the scene of that former alleged bloody massacre and murder, perpetrated two hundred and fifty years ago by the English of that day against the Irish of that time, to revive and bring to light again the feelings which must have dwelt in the hearts and in the minds of those at that time connected with the sufferers in that tyranny. They would recollect how Mr. O'Connell had described it; how he had painted the scenes of misery and wretchedness beyond description, which must have been overwhelming, and seized upon the feelings of every person who was present. He brought them to that place, and he made that speech, as he said, upon the spot where that tragedy was committed, where everything that Ireland at that time ought to have held dear on earth was sacrificed to the cruelty and treachery of the government of the country at that time. It was to revive and to call back again the feelings that he described as existing in the hearts and minds of those relatives, and to infuse into the breasts of those of the present day, who were listening to the eloquent way in

which he painted those horrid scenes. What was the accusation? It was for endeavouring to excite and raise discontent and hatred in one part of her Majesty's dominions against another, especially the Irish against the English—that was, that the only ground upon which these transactions bore upon the present case; that assemblage, so selected, consisted of as many persons as were assembled on the Hill of Tara—the greatest monster meeting that, up to that time, had ever taken place in Ireland. Were those thousands to have their feelings excited, and were the British ministry to be told—was the British parliament to be told that these hundreds of thousands of people organised, disciplined, excited in the manner that they had heard stated by the parties themselves, were to remain in such a state, that the moment Mr. O'Connell thought proper to stamp his foot or raise his hand, they would reassemble at his beck, no matter what his commands might be? There was another subject of accusation—the exciting discontent and disaffection against the law and constitution of the country. What was that law, and what was the constitution as by law established? The union which was the law of the land, and no other to this day, and at Mullaghmast it was proclaimed by Mr. O'Connell to the hundreds of thousands that were listening to him, that the union was a nullity—that it was absolutely void. It was for the jury to say was that for the purpose of exciting discontent and disaffection amongst the subjects of this country, against the law and institutions of the country. The third effect of this conspiracy was the depreciating the courts of justice as established by law, and the constitution of the realm in this country, bringing them into contempt, and inducing the subjects of the realm to withdraw the adjustment of their disputes and differences from the courts appointed under the Queen's authority, and inducing the Queen's subjects to go to other tribunals for the adjustment of those differences. Was there any evidence given in support of that alleged conspiracy. Had they, or had they not, Dr. Gray coming forward and making his statement in the presence of those assembled masses, that the time was come when the administration of law would be taken out of the hands of those courts over which presided the Saxon or the stranger, and those who, being settled here, had taken the advantage to put into execution their plans of tyranny and impropriety? Had they, or had they not, Mr. O'Connell adverting to the same system? Did he not state at Clifden, that the institution of these arbitration courts were the foundation of his judicial system in this country. Did they not find him again recurring to the same subject at Mullaghmast; and had they not Mr. Ray also aiding in recommendations of that common cause. Mr. John O'Connell likewise made a speech at Mullaghmast; and, moreover, he was one of the first arbitrators who took upon himself to act under that appointment at Black Rock, concurring thereby fully in the establishment of those courts, under the authority of the association. Hitherto he had said nothing of the Rev. Mr. Tierney, who did not appear to have attended, or participated in the meeting at Mullaghmast, nor was there, as he (the Chief Justice) understood, evidence that he became a member of the association until the 3rd of October after the Mullaghmast meeting. It was true Mr. Tierney had a little pet meeting of his own at Clontibret, on the 15th of August, and it appeared that that meeting went off with more peaceable decorum and propriety than any

other of the meetings to which their attention had been called. There were magistrates and policemen at it; but, the more especially, as he did not think the point with regard to that meeting had been much pressed against Mr. Tierney, he (the Chief Justice) was willing to adopt the same course with respect to what took place up to that time—the more particularly as some little uncertainty appeared to exist in reference to the parole evidence given by M'Cann, a policeman, who was examined as to what took place between him and Mr. Tierney on the 15th of June. He (the Chief Justice) did not wish to be understood to impute anything wrong to M'Cann in giving this evidence; he would confine himself to what took place at the meeting which Mr. Tierney attended on the 3rd of October, and he was disposed rather to advise the jury to take the same course with regard to the Clontibret meeting, because Mr. Tierney appeared to be a gentleman who conducted himself with that degree of propriety and correctness which might be expected from a gentleman of his cloth; and the witness stated that he had often received assistance from him in the discharge of his public duties. Mr. Tierney attended a meeting of the Repeal Association on the 3rd of October—the day but one after the Mullaghmast meeting. Whether he was cognizant of the resolutions passed at the latter meeting, he (the Chief Justice) did not know; but a matter so recent, and occurring at a place so near, it might be asked could he avoid knowing them. Mr. Tierney made a speech on the 3rd of October, the character and nature of which it would be for the jury to judge. He was charged with conspiracy, and they would take it into their consideration how far or otherwise the object of his speech fell in with or partook of the general nature of the common design, as it appeared to have been promoted by the acts, and deeds, and speeches of the other parties charged. Mr. Tierney was reported to have said, “It is an old story, but it is not the less valuable on that account that a thing once well begun is more than half finished—Repeal has had a noble beginning this year, and from the glorious progress it is making, I ask why do the countless multitudes who surround the Liberator wherever he goes through the provinces, numberless as the waves of the ocean, assemble? or why do so many of yourselves congregate together here around him? Is it for the purpose of looking at the illustrious individual to do honour to his presence? Is it to gaze upon the greatest friend of the human race? Is it to feast the eye to satiety upon one who is marked out by Divine Providence as the saviour of his country? No, though that would be justifiable in you still you come here for a better purpose, and for a holier purpose. You came here to help him, to assist him in rescuing your country from a state of slavery to be a free nation. You came here to make your own Ireland, the land of your birth, the land of the happy and the free. And let me ask you are you all prepared to do so? If you are, give him deeds as well as words. I can answer for the county I have the honor to belong to, Monaghan, and the parish I have also the honour to be priest of, that we are determined to give our hands as well as our hearts. We are determined to give him acts as well as deeds, and not to leave in his power, or in the power of others to say the people of the north are cold and frozen like the region they inhabit. The iron has sunk deep into their hearts; they love not liberty; they deserve to be slaves. Oh! there was a time when the people of the north

aye, and the men of Monaghan, were found to resist, and the last to bend to the proud Saxon---there was a time when they did not shame the battle field---there was a time when they were found to be the first to resist and the last to bend. Bear me witness, ye different streams of the Black-water---bear me witness, the parish---the very parish I have the honour to come from, Clontibret---bear me witness, Benburb, and the battle of the Yellow Ford in my neighbourhood." It was rather a remarkable thing, and one not to be overlooked, in the case that the members' card was illustrated with those names, Benburb and the battle of the Yellow Ford, all of which were explained by the letter of Mr. O'Callaghan which was adopted by the association. He continued to read the speech of Mr. Tierney, and said the reverend gentleman proceeded to detail the facts of cruelty and alleged tyranny by the English on the Irish people, with the view or in order to bring them before the minds of the people, and more particularly to the minds of the members of the association who were holders of the green cards of that body. The speech continued---"In 1587, Hugh O'Neill was created Earl of Tyrconnell." Recollect, gentlemen, that he was created Earl by the then Sovereign of England, Queen Elizabeth. He was then in his 50th year, and Sir William Fitzwilliam was Lord Deputy of Ireland, the Lord Deputy was the same as the Lord Lieutenant at the present day. He (Sir W. Fitzwilliam) was designated a bloody monster, a foul robber, and murderer. He cited the passage of Mr. Tierney's speech which related to the murder of Hugh M'Mahon, who was hanged at his own door, and whose lands were afterwards divided between Sir Henry Bagnall and Sir W. Fitzwilliam. It was for them to say, if he used this language for the purpose of exciting discontent in the minds of the people by reciting for them murders, or alleged murders, which had long been forgotten, but which were again brought down by the Rev. Mr. Tierney. There were a tissue of stories about the battle of Benburb, the Yellow Ford, and it was stated that the Irish were always victorious over the English, whom it was stated were always defeated with great slaughter. Why did the reverend gentleman introduce those topics? was it done for the purpose of showing that in former times the Irish were the first to resist and the last to yield, as was stated in the speech, or was it, did they think, for the purpose of exciting some feeling, or was it done for the purpose of promoting Christian charity and peace? Those facts were brought before the people after three hundred years had elapsed, and he would leave it to them to judge, and let them take it into their serious consideration, for it was for them to say, not from the evidence given by M'Cann, the policeman, but from the speech of the Rev. Mr. Tierney himself, which was spoken on the occasion. He alluded to what were the motives by which the reverend gentleman was actuated. The speech concludes thus---"I have always said you were victorious"--that is, mind, gentlemen, in the field---"and you must now prove successful when you are unanimous; nothing can prevent you of success except your own timidity and treachery? Are you ready to sell your country?" and, gentlemen, loud cries of "we are not," followed that question. "There were two ways to be followed; one was to slavery; the other to victory; and if you select the first you deserve it, but if you select the best, honour and glory will await you, and you will be yet blessed

other of the meetings to which their attention had been called. There were magistrates and policemen at it; but, the more especially as he did not think the point with regard to that meeting had been much pressed against Mr. Tierney, he (the Chief Justice) was willing to adopt the same course with respect to what took place up to that time—the more particularly as some little uncertainty appeared to exist in reference to the parole evidence given by M'Cann, a policeman, who was examined as to what took place between him and Mr. Tierney on the 15th of June. He (the Chief Justice) did not wish to be understood to impute anything wrong to M'Cann in giving this evidence; he would confine himself to what took place at the meeting which Mr. Tierney attended on the 3rd of October, and he was disposed rather to advise the jury to take the same course with regard to the Clontibret meeting, because Mr. Tierney appeared to be a gentleman who conducted himself with that degree of propriety and correctness which might be expected from a gentleman of his cloth; and the witness stated that he had often received assistance from him in the discharge of his public duties. Mr. Tierney attended a meeting of the Repeal Association on the 3rd of October—the day but one after the Mullaghmast meeting. Whether he was cognizant of the resolutions passed at the latter meeting, he (the Chief Justice) did not know; but a matter so recent, and occurring at a place so near, it might be asked could he avoid knowing them. Mr. Tierney made a speech on the 3rd of October, the character and nature of which it would be for the jury to judge. He was charged with conspiracy, and they would take it into their consideration how far or otherwise the object of his speech fell in with or partook of the general nature of the common design, as it appeared to have been promoted by the acts, and deeds, and speeches of the other parties charged. Mr. Tierney was reported to have said, “It is an old story, but it is not the less valuable on that account that a thing once well begun is more than half finished—Repeal has had a noble beginning this year, and from the glorious progress it is making, I ask why do the countless multitudes who surround the Liberator wherever he goes through the provinces, numberless as the waves of the ocean, assemble? or why do so many of yourselves congregate together here around him? Is it for the purpose of looking at the illustrious individual to do honour to his presence? Is it to gaze upon the greatest friend of the human race? Is it to feast the eye to satiety upon one who is marked out by Divine Providence as the saviour of his country? No, though that would be justifiable in you still you come here for a better purpose, and for a holier purpose. You came here to help him, to assist him in rescuing your country from a state of slavery to be a free nation. You came here to make your own Ireland, the land of your birth, the land of the happy and the free. And let me ask you are you all prepared to do so? If you are, give him deeds as well as words. I can answer for the county I have the honor to belong to, Monaghan, and the parish I have also the honour to be priest of, that we are determined to give our hands as well as our hearts. We are determined to give him acts as well as deeds, and not to leave in his power, or in the power of others to say the people of the north are cold and frozen like the region they inhabit. The iron has sunk deep into their hearts; they love not liberty; they deserve to be slaves. Oh! there was a time when the people of the north---

aye, and the men of Monaghan, were found to resist, and the last to bend to the proud Saxon---there was a time when they did not shame the battle field---there was a time when they were found to be the first to resist and the last to bend. Bear me witness, ye different streams of the Blackwater---bear me witness, the parish---the very parish I have the honour to come from, Clontibret---bear me witness, Benburb, and the battle of the Yellow Ford in my neighbourhood." It was rather a remarkable thing, and one not to be overlooked, in the case that the members' card was illustrated with those names, Benburb and the battle of the Yellow Ford, all of which were explained by the letter of Mr. O'Callaghan which was adopted by the association. He continued to read the speech of Mr. Tierney, and said the reverend gentleman proceeded to detail the facts of cruelty and alleged tyranny by the English on the Irish people, with the view or in order to bring them before the minds of the people, and more particularly to the minds of the members of the association who were holders of the green cards of that body. The speech continued---"In 1587, Hugh O'Neill was created Earl of Tyrconnell." Recollect, gentlemen, that he was created Earl by the then Sovereign of England, Queen Elizabeth. He was then in his 50th year, and Sir William Fitzwilliam was Lord Deputy of Ireland, the Lord Deputy was the same as the Lord Lieutenant at the present day. He (Sir W. Fitzwilliam) was designated a bloody monster, a foul robber, and murderer. He cited the passage of Mr. Tierney's speech which related to the murder of Hugh M'Mahon, who was hanged at his own door, and whose lands were afterwards divided between Sir Henry Bagnall and Sir W. Fitzwilliam. It was for them to say, if he used this language for the purpose of exciting discontent in the minds of the people by reciting for them murders, or alleged murders, which had long been forgotten, but which were again brought down by the Rev. Mr. Tierney. There were a tissue of stories about the battle of Benburb, the Yellow Ford, and it was stated that the Irish were always victorious over the English, whom it was stated were always defeated with great slaughter. Why did the reverend gentleman introduce those topics? was it done for the purpose of showing that in former times the Irish were the first to resist and the last to yield, as was stated in the speech, or was it, did they think, for the purpose of exciting some feeling, or was it done for the purpose of promoting Christian charity and peace? Those facts were brought before the people after three hundred years had elapsed, and he would leave it to them to judge, and let them take it into their serious consideration, for it was for them to say, not from the evidence given by M'Cann, the policeman, but from the speech of the Rev. Mr. Tierney himself, which was spoken on the occasion. He alluded to what were the motives by which the reverend gentleman was actuated. The speech concludes thus---"I have always said you were victorious"---that is, mind, gentlemen, in the field---"and you must now prove successful when you are unanimous; nothing can prevent you of success except your own timidity and treachery? Are you ready to sell your country?" and, gentlemen, loud cries of "we are not," followed that question. "There were two ways to be followed; one was to slavery; the other to victory; and if you select the first you deserve it, but if you select the best, honour and glory will await you, and you will be yet blessed

by unborn generations." The reverend gentleman concluded by reading in 1821 from the North. To that speech Mr. O'Connell paid the marked compliment of a speech, and proposed the thanks of the association to him. They should recollect that the sentiments he uttered were adopted by the association, and the sentiments were relative to murders and massacres, said to have been committed on the Irish people by the English long before. The vote of thanks was received with acclamation and adopted by the association. It was for them to say if the history of cruelties, which were said to have been committed some three or four hundred years ago, were adopted by the association for the purpose of exciting ill feelings and hatred in the minds of the Irish people against their fellow-subjects in England, and it was also for them to say, under the circumstances, whether the Rev. Mr. Tierney participated in the common cause or not. Now, he (the Chief Justice) had gone through all the traversers, with the exception of Mr. Duffy; however he would still have a little to say of Mr. Barron hereafter; but in those statements of what passed at Mullaghmast, and at the association meeting two days after, it would be seen that it included and attached to them all. It was not denied that Mr. Duffy was also a member of the association, and it was proved by various documents, independent of which it was not attempted to be disputed that he was the proprietor of the *Nation* newspaper, a paper more or less in connexion with the association. He was also accused of having entered into this common conspiracy so often detailed; and though it was not sworn that he attended any of the great meetings, and, to prove it, various documents, as he had before stated, were put in evidence, for the purpose of showing that he was engaged in what was alleged to be the common object of the conspirators. In his paper of the 29th of April, 1843, the first article he (the Chief Justice) alluded to, was entitled "Something is Coming." The learned judge proceeded to read the document in question, and which was to the effect that the country was roused—that England never conceded any thing to Ireland, but when she was in difficulties—that she was in distress, as her colonial dominions occupied eighty battalions of her troops, of which only twenty-three remained at home, and consequently that if Irishmen stood together she would have to yield to their demands for domestic legislation. His lordship also read another article from the same paper, headed "Our Nationality," and proceeded to say—That article was written in the same spirit and with the same tendency to promote the same end. There was another article of the 12th of August, 1843, of the *Nation*, which stated that no power dare interfere with those meetings now. Upon those documents it was for them to say whether Mr. Duffy was aiding and assisting the general confederacy, while other documents and other speeches has afforded evidence to implicate the other traversers. There was another document still of Mr. Duffy's, which he would also refer to as being of a piece in its tone and sentiment with that already stated here, but going, perhaps, a little bolder and a little firmer in what it professed. The learned judge then read the article in the *Nation*, dated the 26th of August, 1843, entitled "The Crisis is upon Us." He now begged leave to call their attention to an article entitled "The Irish

in the English Army," which was published in Mr. Barrett's paper, the *Pilot*, on the 6th of September. The person named O'Callaghan, to whom allusion was made, was the person, it would be borne in mind, who was selected to give the explanation of the green card, and who received the thanks of the association for having done so. This article appeared of importance, because one of the objects of the conspiracy was stated to be the exciting of discontent and disaffection in the Queen's army. The learned judge read the article in question, and next proceeded to call the jury's attention to another article which was published in the *Pilot* of the 25th of September, entitled, "The Army, the People, and the Government." Another letter which had been read, bears the signature of the Rev. Mr. Power, a parish priest in the county of Waterford; and it was said that he would have been produced there on behalf of the traversers. He had not been so produced, and the officer of the crown had made no comment upon the fact. That letter of morality or divinity signed by Mr. Power. [Here Mr. Justice Burton conferred for a few moments with the Chief Justice, who then resumed.] He said he would not further comment upon that letter. There were three articles published by Mr. Barrett on the duties of a soldier, which inculcated the notion that private soldiers were to consider in their own minds whether they ought or ought not to obey the commands of those who are in authority over them. That doctrine was contained in the "Morality of War," the letter written by Mr. Power, and published by Mr. Barrett, and it was for the jury to consider whether these articles were or were not published by these alleged conspirators, with the view of making the army refuse to act if called upon to repress any tumultuary uprising which might be produced by their own acts. He need not tell them that if the traversers intended so to interfere it was a high offence, and several acts of parliament had been passed to punish any person who presume to interfere with the army. Although there was no evidence of these publications reaching the hands of the soldiers---yet, if the jury were satisfied that the traversers had combined together for the purpose of tampering with the military, although the fact was never executed, the crime was as complete as if they had succeeded. The crime did not consist in the success, but the intention of the traversers to carry the conspiracy into effect. Therefore, with regard to the charge of tampering with the army, it was for the jury to say whether it had been intended by the traversers, or any and which of them. If they believed the fact of the existence of a common criminal design, with the intent of effecting those common criminal intents, which were stated upon the face of the indictment, it would not be necessary for them to come to the opinion, that one and all of the traversers should be guilty of one and all of the offences set out to constitute that criminal object. They all knew that, in point of fact, there were five of those criminal intentions, for the effecting of which the criminal conspiracy is alleged by the indictment. It was not necessary that they should be all implicated in the same criminal end, as to the different branches of the indictment. One or two may be guilty of the criminal intention of the conspiracy, with regard to the army; one or more might be guilty of conspiracy with a criminal intention of exciting one set of her Majesty's subjects against another, and rendering them discontented with



the constitution and laws of the country. Another set might be guilty of the criminal intention of combining for the purpose of collecting large bodies of men in different parts of Ireland, for the purpose, thereby, of intimidating or overawing the legislature or government of the country; and another set of them might be guilty of the criminal design of the conspiracy, if an intention to bring into disrepute the courts of justice, as by law established, under her Majesty, and inducing the subjects of this country to have their disputes referred for decision by other tribunals than courts of justice. Now it might be that one or more of these several charges may, in their apprehension, have been brought home against the several traversers, one and all of them, or against such of them as they may be of opinion the criminal design was proved against. Before, however, he put the case finally to them, he had another document yet to read which he thought of much importance, and he had something more to say with regard to a particular charge in the indictment—namely, the arbitration courts. The document which was published was issued by the association on the 18th of September, 1843, and it purported to be “The Address of the Loyal National Repeal Association to the inhabitants of the several countries subject to the British crown.” It was not an address to the crown; nor an address to the parliament. It was not a petition of any kind, but an address to the subjects of those countries under the British crown. [Having read the publication in question, his lordship continued]—“Was that a publication with a view of inflaming the people of Ireland, and exciting discontent and hatred against the people of England, or with any other design. That they (the jury) would have to judge of. He continued to read passages of the address—“There never was a country perpetrated such injuries on another as England did on Ireland, nor was the spirit of hostility much mitigated, if mitigated at all.” Then he goes on to state what he calls their grievances, resulting from the act of union, and the manner in which he proposed to redress them. They should recollect that he (Mr. O’Connell) had stated that he despaired of justice from England, and this was disparaging the courts of justice in this country. “The Hill Cooleys were not treated as the Irish were.” Now that might or might not be true; but whether it was true or not was not the question they were then trying there. Now mind, gentlemen, the conclusion of the address:—“Fellow-subjects, our case is before you, and before the world, and such injuries and insults were heaped on Ireland; but there was one consolation—unless they redressed themselves, they need not expect it from any other quarter. We expect nothing from England or Scotland, or from Englishmen or Scotchmen, as they have too much anti-Irish and anti-Catholic feelings to do any good for Ireland; but we suffice for ourselves. Let us stand together in peaceful loyalty and attachment to the throne—let us stand together on constitutional grounds, and nothing else.” That is as much as to say, give us a new constitution and a new state of laws, such as the people demand, and such as they dictate for you. If you do not, we will suffice for ourselves. Was that intimidation or was it not? “Persevere, and Ireland will have her parliament again.” Was that a command or a petition? “Such are the words we address to our fellow-subjects all over the globe”—Signed, “Daniel O’Connell, chairman of the committee—Corn Exchange Rooms, 13th September, 1843.” This was

ordered to be printed upon a large sheet, to be circulated in the colonies, and everywhere in the British dominions, and adopted and carried unanimously by the association. He had one subject more, to which he would, in particular, direct their attention—namely, the arbitration courts. They would observe that the charge was not simply combining together to bring forward the creation and constitution of those arbitration courts, but the main and principal charge was this, the combining together for the purposes of endeavouring to bring into disrepute and discredit the existing courts of justice in the country, as by law established. There was a great deal of argument, and a good deal of what he thought unnecessary statement with regard to the subject of arbitration. It was said, with a great deal of vehemence and sincerity, he made no doubt, that the terminating suits by arbitrators was not only not a crime, but laudable as a religious and moral duty. It was given in evidence, that the system was universally put in practice by the Society of Friends, who, it was stated, and most deservedly, were amongst the most moral and properly conducted subjects of the British crown. It was stated that they were in the constant habit of referring their disputes to be decided by arbitration, and by the law of the Society of Friends. Any man who had a dispute with another person, was bound, in the first place, to endeavour to decide that question by arbitration before he was at liberty to take proceedings at law, and, moreover, that rule of the society was enforced by another rule that any member of the Society of Friends, who would decline so to terminate the suit by arbitration before he went to law was to be expelled or read out of meeting as it was called by the society. The Ouzel Galley was also referred to, and to those gentlemen, consisting of the principal merchants of Dublin, suits were referred and decisions made by them, but the system of arbitration adopted by them was not analogous to what was proposed by the traversers. But although it took upon itself to decide the disputes and differences of those who thought proper to refer to the decision of its members, its proceedings were always based, in the first instance, upon a writ issuing out of the superior courts, and deemed therefore judicial. [Justice Crampton here whispered the Chief Justice.] It was so stated by Mr. Cosgrave—it came to the same thing, the writ was issued, or the form of their submission was made a rule of the court above; thus, the arbitration was subordinate to the superior court. But it was stated further, that the decision of the courts by arbitration was also desirable upon a conscientious and religious principle, namely, putting a stop to the administering of oaths. That was all very plausible argument to be brought forward now, and very plausible examples had been set up as being precedents, and the foundation upon which the arbitration courts were established by the association. Now, if the association had acted a really *bona fide* part—if any one of those reasons which were put forward during this trial for the purpose of giving countenance to the establishment of these courts were *bona fide*, there might be something in it; but it would be for the jury to decide whether they were not set up for an entirely different purpose—namely, for the purpose of opposing the government in the course they had taken by dismissing from the commission of the peace the magistrates who had attended the several repeal meetings. He had already stated to them the speeches of Dr. Gray, who seemed to have

designed for the performance of those duties to which it is to be presumed they were competent, and for the discharge of which her Majesty, by her letters patent, had thought fit to appoint. The administration of the law, as also the confidence of the public, was to be withdrawn from them, and the administration of the law was to be placed in the hands of persons who, as far as it appeared, never received any education upon the subject of the law of the land. The people, if they chose, if they thought it their advantage, might, of course, if they thought proper, refer their disputes to arbitration. There were many cases, he was persuaded, in which parties could not adopt a better plan than that of referring the matter in dispute to arbitration. Among other advantages it contributed to save expense. But was that the reason why arbitration courts should be established, and composed of individuals not chosen by the parties themselves, but by the association, who thought proper to assume to themselves the power which belonged alone to the Queen's prerogative. If the jury thought that these aspersions on the courts of justice were promulgated by the traversers with a view of bringing these courts of justice and the administration of justice into contempt and disrepute, and to withdraw from them that confidence which the people had in them---if the traversers did these acts, and did them with a common design, then he told the jury that what they so did was a high misdemeanor, was highly illegal, and that if they conspired to do these things by combination, they were guilty of the conspiracy imputed to them in that respect. There were four other grounds of accusation. The eight traversers were indicted for having conspired and agreed to raise and create disaffection, hatred, and unlawful opposition to the government and constitution. Secondly, whether they conspired and agreed, or any, and which of them, to stir up jealousies amongst the Queen's subjects, and to promote ill-will to her other subjects, especially the Irish against the English. Thirdly, whether they, or any, and which of them, conspired and agreed, or any, or which of them, to excite disaffection in the army. Fourthly, whether they conspired and agreed to collect unlawful assemblages in large numbers in Ireland, in order to obtain changes in the laws and constitution, by intimidation and the demonstration of physical force. And lastly, whether they, or any, and which of them, conspired and agreed to bring the courts of judicature, established by law, into disrepute, and with the intent to induce the subjects of the Queen to submit their disputes to other tribunals. If they were of opinion that the traversers, or any, and which of them, conspired and agreed to do or cause to be done the said several matters, or any of them, then they were to find such traversers or traverser guilty of the conspiracy as laid. I [continued the Chief Justice] put the questions to you in the language of the indictment. It lies upon the crown to establish, which they have undertaken to do, that the traversers or some of them are guilty of a conspiracy, such as I have already stated to you---a conspiracy consisting of five branches, any one of which being brought home to your satisfaction will maintain and establish the charges which the crown have undertaken to prove. But, gentlemen of the jury, you are never to lose sight of this fact, that criminality and crime is a thing that must be proved, and is not to be merely surmised. Every person by the law of this country is entitled to have the benefit of

being deemed innocent until he is pronounced guilty. The traversers have, one and all of them, made the defence that their designs were not criminal—that they had grievances—that they had a right to complain of those grievances—that they had a right to lay them before the public, though it happened that in so doing they attended multitudinous meetings. If you should be of opinion that such were the designs and obvious intention of the traversers, and that they had no criminal intention, and did not mean to resort to any criminal means for the furtherance of these objects—if that be your opinion, you would be bound to acquit the traversers, but if, upon the other hand, you should be of opinion that these were not the real objects of the association or of the persons charged as traversers here, but that whatever their apparent designs might be, if they had in fact and in truth the criminal intentions which are attributed to them by the crown, and if you all are satisfied that the traversers, or some of them, in furtherance of this design acted in common concert, then in such case you will be bound conscientiously to find them guilty of the conspiracy of which you find them participants. A great deal has been addressed to you which I do not at all intend to recapitulate. You have been pressed by arguments in appeal to your feelings; I would say in appeal, sometimes to your apprehensions; you have been addressed by gentlemen of the greatest ability, I believe in greater numbers than ever persons accused of crime have ever yet had an opportunity of being heard in their behalves. Every topic that could be suggested by ingenuity and reasoning has been discussed—nothing has been omitted; but it has been thrown out to you that there were other grounds besides the evidence which has been laid before you which you might properly take into your consideration in arriving at your verdict. In answer to that, I have only to state to you that by the law you are to hold yourselves as perfectly indifferent parties; indifferent to every consideration except the evidence laid before you as jurors; and remember the oath you have taken is to give a true verdict according to the evidence; that is your oath. To enable you to do that, I must say you have paid the most marked attention; indeed, I may say I never saw a jury who, during a long and painful trial—extending over more than three weeks, have paid such unceasing and undeviating attention to the case and the evidence before them, than you have. In drawing your conclusion, and finding your verdict, you will attend to the evidence before you, and let it be conformable to the dictates of your reason and of your consciences, and I do trust that the Lord who rules over all will enlighten your direction. I have now no more to say.

The issue paper was then about being handed to the jury, when Mr. Henn asked to see it.

The foreman said the jury felt very much fatigued, and wished to know whether it would be necessary for them to go into the consideration of the case to-night?

The Chief Justice said, that after the charge had been delivered it was not possible to allow the jury to separate. They might retire to their chamber; but they should remain in the custody of the sheriff.

Mr. Justice Crampton said they should be supplied with every refreshment they required.

The jury then retired.

Mr. Henn submitted that there was no evidence of any act being done within the county of the city of Dublin, and the traversers were entitled to have a direction for an acquittal upon that point.

The Chief Justice—What do you call the meetings at the association?

Mr. Henn—There is no evidence of their having been held within the county of the city of Dublin.

Justice Crampton—I rather think there was evidence of some of the papers having been printed in Dublin.

Mr. Henn—No, but we only require the court to take a note of the objection.

Justice Crampton (in the absence of the Chief Justice) accordingly did so.

Precisely at half-past five o'clock the issue was handed up to the jury, when

The foreman said—My lord, the jury are very much fatigued, and they wish to know if it is necessary they should go into the case to-night.

Chief Justice—I am sorry to tell you that after the charge has been delivered it will not be possible to allow you to separate. You may retire to your chamber, but I am sorry to say we have not the power of giving you the liberty you have hitherto enjoyed of going to your own homes. You must remain in court in the custody of the sheriff, and you cannot be allowed to have any communication with any other person. The chamber is the only place that I am aware at present you can occupy. I do not mean in what I now say in any way to influence the judgment of those whom I now address, but I may observe, that I have known instances in which a jury were not allowed to separate, but were allowed to remain together in the custody of the sheriff, and to have such accommodation as they might require during the time that elapsed before they gave their verdict. It is not a matter in which the court can give any direction, but if done at all, it can only be done by consent; and unless it is done by consent, I am not aware that the court is at liberty to give any other answer to your question.

Judge Crampton—The high sheriff has prepared a room in the most comfortable manner—the grand jury room—and no doubt every necessary refreshment will be supplied.

Mr. Henn—My lords, we submit that there is no evidence in this case of any act having been done to support this charge within the county of the city of Dublin, and that we are, therefore, entitled to your lordships' direction for an acquittal, as the entre is not properly laid.

Chief Justice—What do you call the meetings of the association and the speeches made there?

Mr. Henn—There is no evidence to show that they were in the county of the city of Dublin.

Judge Crampton—Well, as the Chief Justice is very much fatigued, I'll take a note of your objection.

Solicitor General—Is there no evidence of Brown, the printer, of Nassau-street, having printed their publications?

Their lordships then retired, Judge Burton having intimidated that they were only going to the chamber, but not leaving the court.

When the jury had retired, and the judges, with the exception of Mr Justice Perrin,

Mr. Moore, on the part of the traversers, said that he was quite satisfied that the entire of the documents should be given to the jury, but he had been instructed that marks and scores had been made under particular parts of them, which he did not think should go before the jury. Moreover, he understood that the officer of the court had in his hands very many of the documents on one side, while he had very few indeed of the documents on the side of the traversers. The documents for the defence were lodged with the officer when proved, and they never saw them again.

Judge Perrin---It was the duty of the officer to have taken care of all the documents on both sides.

The Attorney-General---We took care of our own documents, and they are every one of them forthcoming. More could not have been expected from us.

The Clerk of the Crown said that of eleven documents which had been given in evidence for the defence he had given back nine to the agents for the traversers, and he never saw them again.

Mr. Ford---I gave you back all the documents, most assuredly.

Mr. Henn---None of the newspapers we gave in evidence are forthcoming at all.

Mr. Justice Perrin---Oh, yes, but they will be forthcoming. Mr. Vernon has got some of the newspapers; a messenger has gone for him, and he will be here presently.

Mr. Justice Perrin, (after the confusion caused by the non-production of the documents had in some degree subsided,) addressed the foreman of the jury, and said---The cause of the delay is that some papers that ought to be before you, as they were given in evidence, are not forthcoming. They have been sent for, and I suppose will be here in a few minutes.

Mr. Brewster---I rather think it will be found that all the documents are in court.

After a few minutes being occupied in an attempt to regulate and assort the documents,

Mr. Henn addressed Mr. Justice Perrin, and said---I object to any papers going to the jury unless we see them first.

The foreman retired, and, at half-past seven,

Mr. Justice Crampton came into court unrobed, and, addressing the court, which was still crowded to excess, said---Gentlemen, you may retire home to take your dinners, as the court is adjourned till a quarter to nine.

Five bailiffs were then sworn, in the usual form, to prevent communication with the jury until that hour. Few of those in court took advantage of the suggestion to go home.

Counsel for the traversers then requested the clerk of the crown to hand up to the jury the documents read on behalf of the defendants.

Mr. Bourne, in reply to Mr. Henn, said there were several documents and newspapers read that he did not mark.

The Attorney General said that all documents were now in court, and he wished to know if they were to go to the jury?

Mr. Moore said he had already stated that it was the wish and consent of the traversers, that all the documents should go to the jury, provided

Mr. Henn submitted that there was no evidence of any act being done within the county of the city of Dublin, and the traversers were entitled to have a direction for an acquittal upon that point.

The Chief Justice—What do you call the meetings at the association?

Mr. Henn—There is no evidence of their having been held within the county of the city of Dublin.

Justice Crampton—I rather think there was evidence of some of the papers having been printed in Dublin.

Mr. Henn—No, but we only require the court to take a note of the objection.

Justice Crampton (in the absence of the Chief Justice) accordingly did so.

Precisely at half-past five o'clock the issue was handed up to the jury, when

The foreman said—My lord, the jury are very much fatigued, and they wish to know if it is necessary they should go into the case to-night.

Chief Justice—I am sorry to tell you that after the charge has been delivered it will not be possible to allow you to separate. You may retire to your chamber, but I am sorry to say we have not the power of giving you the liberty you have hitherto enjoyed of going to your own homes. You must remain in court in the custody of the sheriff, and you cannot be allowed to have any communication with any other person. The chamber is the only place that I am aware at present you can occupy. I do not mean in what I now say in any way to influence the judgment of those whom I now address, but I may observe, that I have known instances in which a jury were not allowed to separate, but were allowed to remain together in the custody of the sheriff, and to have such accommodation as they might require during the time that elapsed before they gave their verdict. It is not a matter in which the court can give any direction, but if done at all, it can only be done by consent; and unless it is done by consent, I am not aware that the court is at liberty to give any other answer to your question.

Judge Crampton—The high sheriff has prepared a room in the most comfortable manner—the grand jury room—and no doubt every necessary refreshment will be supplied.

Mr. Henn—My lords, we submit that there is no evidence in this case of any act having been done to support this charge within the county of the city of Dublin, and that we are, therefore, entitled to your lordships' direction for an acquittal, as the entre is not properly laid.

Chief Justice—What do you call the meetings of the association and the speeches made there?

Mr. Henn—There is no evidence to show that they were in the county of the city of Dublin.

Judge Crampton—Well, as the Chief Justice is very much fatigued, I'll take a note of your objection.

Solicitor General—Is there no evidence of Brown, the printer, of Nassau-street, having printed their publications?

Their lordships then retired, Judge Burton having intimidated that they were only going to the chamber, but not leaving the court.

When the jury had retired, and the judges, with the exception of Mr Justice Perrin,

Mr. Moore, on the part of the traversers, said that he was quite satisfied that the entire of the documents should be given to the jury, but he had been instructed that marks and scores had been made under particular parts of them, which he did not think should go before the jury. Moreover, he understood that the officer of the court had in his hands very many of the documents on one side, while he had very few indeed of the documents on the side of the traversers. The documents for the defence were lodged with the officer when proved, and they never saw them again.

Judge Perrin---It was the duty of the officer to have taken care of all the documents on both sides.

The Attorney-General---We took care of our own documents, and they are every one of them forthcoming. More could not have been expected from us.

The Clerk of the Crown said that of eleven documents which had been given in evidence for the defence he had given back nine to the agents for the traversers, and he never saw them again.

Mr. Ford---I gave you back all the documents, most assuredly.

Mr. Henn---None of the newspapers we gave in evidence are forthcoming at all.

Mr. Justice Perrin---Oh, yes, but they will be forthcoming. Mr. Vernon has got some of the newspapers; a messenger has gone for him, and he will be here presently.

Mr. Justice Perrin, (after the confusion caused by the non-production of the documents had in some degree subsided,) addressed the foreman of the jury, and said---The cause of the delay is that some papers that ought to be before you, as they were given in evidence, are not forthcoming. They have been sent for, and I suppose will be here in a few minutes.

Mr. Brewster---I rather think it will be found that all the documents are in court.

After a few minutes being occupied in an attempt to regulate and assort the documents,

Mr. Henn addressed Mr. Justice Perrin, and said---I object to any papers going to the jury unless we see them first.

The foreman retired, and, at half-past seven,

Mr. Justice Crampton came into court unrobed, and, addressing the court, which was still crowded to excess, said---Gentlemen, you may retire home to take your dinners, as the court is adjourned till a quarter to nine.

Five bailiffs were then sworn, in the usual form, to prevent communication with the jury until that hour. Few of those in court took advantage of the suggestion to go home.

Counsel for the traversers then requested the clerk of the crown to hand up to the jury the documents read on behalf of the defendants.

Mr. Bourne, in reply to Mr. Henn, said there were several documents and newspapers read that he did not mark.

The Attorney General said that all documents were now in court, and he wished to know if they were to go to the jury?

Mr. Moore said he had already stated that it was the wish and consent of the traversers, that all the documents should go to the jury, provided



there was not on the face of any of those documents any mark that might prove prejudicial to the case of the traversers, and if that be the case, it would not be right to consent to it.

Judge Crampton—Certainly, Mr. Moore.

Mr. Moore proceeded to say he understood that some of the papers given in evidence on the part of the crown, containing the evidences on which they rely, had some of those passages marked, and the passages on which the traversers relied were not marked. If those papers went to the jury the consequence would be, that the jury's attention would be directed to that which was prejudicial to the traversers, and there would be nothing to direct the jury to that part favourable to the traversers.

Judge Crampton—What you say is quite reasonable, Mr. Moore, and as there is a difficulty about the matter, let the high sheriff inform the jury that they cannot have the documents. Some of the jury have required refreshment, and I have ordered some of a temperate character (loud laughter). I mean to sit here for three or four hours, and if the jury do not agree, I will swear bailiffs to be put on the room. His lordship then retired.

At half-past seven Judge Crampton came into court. His lordship said I do not see the jury are coming out, I think the better course will be for me to adjourn the court until a quarter before nine.

Sir Colman O'Loughlen—Will your lordship swear in bailiffs?

Judge Crampton—Oh, yes, and I may as well say nine o'clock.

The Clerk of the Crown then swore three constables to take the custody of the jury.

*Quarter to Nine o'Clock.*

At this period the court was crowded to excess. The Attorney General and the Solicitor General, arrayed in their bar costume, occupied their respective seats.

Sergeant Warren, Mr. Brewster, Q.C., Mr. Holmes, Mr. Smyly, and Mr. Napier appeared seated on the crown side in undress.

Mr. Moore, Q.C., leading counsel for the traversers, with Mr. Sheil Q.C., Mr. Whiteside, Q.C., Mr. Fitzgibbon, Q.C., Mr. Monaghan, Q.C., and Mr. O'Hara, sat without their robes at the opposite side of the court. With them appeared Messrs. Close, Clemens, O'Hagan, MacCarthy Perrin, and Moriarty, in bar costume.

At this moment the officer of the court proclaimed silence, Judge Crampton entered and took his seat on the bench, but not wearing his judicial robes.

Judge Crampton—Mr. Sheriff, call the jury.

Two policemen, who occupied positions in the jury-box, proceeded to the jury-room, and three minutes having elapsed,

Judge Crampton—Have the jury been called?

High Sheriff—My Lord, they have been sent for, but I will go myself to the jury-room.

Judge Crampton—Just tell them to come to the box.

The High Sheriff proceeded to the jury-room, and after the lapse of five minutes the foreman made his appearance in the box, and addressing the bench, said—My lord, we are not quite ready yet.

Judge Crampton---Oh, very well, gentlemen; I will wait for you; but let me know when you are ready.

The foreman immediately withdrew.

The sensation in court at this moment was indescribable, it being evident from the tone and manner, no less than from the words of the foreman, that the jury had determined to convict.

At the end of five minutes, the foreman not having returned,

Judge Crampton, addressing the sheriff said---I will go to chamber for a while, should the jury come into court, have me called.

Here Mr. Hatchell, Q.C., and Mr. Henn, Q.C., came into court, without wig or gown, and took their places with the other counsel for the traversers.

His lordship then retired to chamber.

[An interval of nearly an hour now occurred. During this period a suspense of the most intense character pervaded the crowded court. The Attorney and Solicitor General were observed momentarily to pull out their watches and anxiously to compare time with Mr. Brewster and the other prosecuting counsel by whom they were surrounded.]

*Quarter to Eleven o'Clock.*

Judge Crampton again came into court, and directed the jury to be called.

The High Sheriff proceeded to the jury room, and in a few minutes

The foreman appeared and inquired of his lordship if they were to give their verdict under each count?

Court---Yes.

Foreman---And are we obliged to give our verdict on every count?

Court---Yes.

Foreman---Whether we are agreed or not agreed?

Court---Yes.

Mr. Henn---Oh, my lord, it is necessary that the jury should agree upon each count.

Judge Crampton (to the Foreman)---Don't misunderstand me. If you are agreed upon each count, or on all the counts, you have only to say "not guilty," or "guilty," according to your verdict. If you only agree on some of the counts, you state those on which you have agreed, and the traversers with respect to whom you agree.

Foreman---Then we are only to state those on which we are agreed, and take no notice of the others.

Judge Crampton---There must be a finding on the others.

Mr. Hatchell---If they don't agree they can state that to the court.

The foreman again retired.

Judge Crampton---Mr. Attorney and Mr. Moore, I am disposed to think that if the jury were agreed on certain counts, and could not agree on certain other counts, that I would be at liberty to receive their verdict so stated. I wish you to consider that.

The jury came into court after an hour's absence.

The Clerk of the Crown---Gentlemen, answer to your names.

The jurors severally answered to their names.

Clerk of the Crown---Crier, call Daniel O'Connell.

Judge Crampton---If they appear by attorney we cannot ask their appearance.

Attorney General---I think the course to adopt is to call the traversers upon their recognisances, and they ought to appear.

Clerk of the Crown---Daniel O'Connell, come and appear as you are bound to do, or forfeit your recognisance.

Clerk of the Crown---John O'Connell, come and appear as you are bound to do, or forfeit your recognisance.

Clerk of the Crown---Thomas Steele, come and appear as you are bound to do, or forfeit your recognisance.

Mr. Steele---Here.

Clerk of the Crown---Thomas Mathew Ray, come and appear as you are bound to do, or forfeit your recognisance.

Mr. Ray---Here.

Clerk of the Crown---Charles Gavan Duffy, come and appear as you are bound to do, or forfeit your recognisance.

Clerk of the Crown---John Gray, come and appear as you are bound to do, or forfeit your recognisance.

Dr. Gray---Here.

Mr. Gartlan explained that Mr. Duffy was absent, because it was pre-arranged matter that he would not be expected to appear.

The Attorney General said he considered it proper that it should be done, but that it was a mere matter of form.

Clerk of the Crown---Richard Barrett, come and appear as you are bound to do, or forfeit your recognisance.

Mr. Barrett---Here.

Clerk of the Crown---Rev. Thomas Tierney, come and appear as you are bound to do, or forfeit your recognisance.

The Clerk of the Crown then proceeded to call on the jury for their verdict. He said---Gentlemen, you say nothing on the first count---none on the second; but, gentlemen, on the third count you say Daniel O'Connell, Richard Barrett, and Charles Gavan Duffy are Guilty---nothing with respect to the others.

Judge Crampton---There is no finding on that count against the others.

Clerk of the Crown---No.

Judge Crampton---Then, the finding is imperfect.

The foreman said the first count was too comprehensive.

Clerk of the Crown---Gentlemen, you say that on the fourth count Daniel O'Connell, John O'Connell, Thomas Mathew Ray, John Gray, Thomas Steele, Charles Gavan Duffy, and Richard Barrett, are Guilty.

Foreman---Yes.

Judge Crampton---Is that all?

Clerk of the Crown---Mr. Tierney is not included in that count. On the fifth count, Daniel O'Connell, John O'Connell, T. M. Ray, John Gray, C. Gavan Duffy, and Richard Barrett, are Guilty. No finding on the sixth count. On the seventh count, Daniel O'Connell, John O'Connell,

Thomas M. Ray, Thomas Steele, Richard Barrett, and C. Gavan Duffy, Guilty. No finding in this count with regard to the Rev. Thomas Tierney. There is no finding on the eighth or ninth count, but on the tenth count the jury have found that Daniel O'Connell, John O'Connell, Thomas M. Ray, John Gray, Thomas Steele, Charles Gavan Duffy, and Richard Barrett, are Guilty. On the eleventh count there is no finding, but merely the foreman's signature for self and fellow-jurors.

Mr. Justice Crampton—You must take your verdict back, for in the present state it is imperfect. In those counts, in respect of which you came to a conclusion as to the guilt or innocence of the traversers, it is your duty to return a verdict of guilty or not guilty, and if you cannot come to an agreement on any count or counts, you ought to say so in your verdict.

The Foreman—My lord, we thought that the first count was so comprehensive that it included everything.

Judge Crampton—The first count does embrace all, and the other counts only take the first count into pieces. You had better retire for a few moments and arrange your verdict.

[One of the jurors made an observation, which was not distinctly audible in the gallery.]

Mr. Moore observed that if the jury were of opinion that the defendants were not guilty on the first count, they had a right to say so in their verdict.

Justice Crampton repeated the admonition he had given before, and told the jury that it was their duty to find guilty or not guilty on every count, in respect of which they could agree, and if there were parts of the first count on which they could not agree, the fact ought to be mentioned also.

A Juror—We are agreed on the first and second counts.

Another Juror—No, no, we are not.

Mr. Floyd (a juror)—The jury has no difference of opinion; the only thing on which we have any difficulty is the exact terms in which the verdict ought to be framed.

The Attorney General—We wish your lordship should inform the jury that they are not bound to find on the entire of the counts, and explain that the first count embraces several branches of the conspiracy, which is split up afterwards into the others.

Mr. Moore—We don't mean to offer any arguments upon the point; but on the part of the traversers we mean to object to the direction which we understood your lordship to have given the jury: that if they should disagree upon some of the counts, they should express that disagreement. We respectfully submit that such a verdict could not be received.

Court—But the jury say there is no disagreement.

Mr. Henn—We also object to what the Attorney General says, that it is not necessary that they should find a verdict on all the counts, but they are at liberty to find a verdict on any one of the charges, and give no finding upon the others.

Court—The jury handed in their verdict, containing a finding upon certain counts, and it remained for the court to see whether that is a verdict that can be received at all.

The Attorney General---Perhaps your lordship is not aware that you must adjourn the court, as it is very close upon twelve o'clock now, and the verdict cannot be received, and it may be right now to adjourn to Monday morning. It wants but a few minutes of twelve o'clock.

Court---It has not struck twelve yet. I should wish to be quite satisfied that the verdict can't be received after twelve o'clock. I have received verdicts at two and three o'clock in the morning in capital cases, and, I believe, upon one occasion, on a Sunday morning. Let the jury be called into court at once.

The jury immediately entered their box.

Court---Have you now arranged your verdict?

Foreman---Not yet, my lord (great laughter.)

Court---This laughter and noise is extremely indecorous, and I must exercise the authority of the court if I find any person committing a breach of order again.

The jury again retired.

Mr. Henn---It's now past twelve o'clock.

Mr. Hatchell---'Tis five minutes after twelve.

Court---By what time is that?

Mr. Hatchell---By the Post-office.

Court---The Post-office is not always correct time. At all events it will be past twelve before the verdict can be brought in now.

The Attorney General---I can't possibly consent to the jury being allowed to separate now. I think there must be an adjournment till Monday morning.

Court---I want to know whether you contend that the verdict is not receivable now?

Attorney General---Under the circumstances, I think the jury should not be allowed to separate at this hour.

Court---That is a different question, I want to know whether you mean to say that the verdict is receivable?

Attorney General---I don't go that length, nor do I think it necessary; but in a case of this magnitude and importance, I cannot agree to have the jury discharged now.

Court---I only want to have it done according to law; certainly great inconvenience may arise from keeping the jury shut up during the night, and all to-morrow, and the whole of to-morrow night, and if there is not an absolute necessity for it, it should not be resorted to. What do you say Mr. Moore?

Mr. Moore---I say nothing, my lord.

Court---Very well, you don't commit yourself much by that (laughter.) What do you say Mr. Henn?

Mr. Henn---My Lord, we don't consent to any arrangement; we have nothing to say to it.

Court---I see that I can't get any information or assistance from either side.

Attorney General---It happens to be a singular case, and a question might be raised as to whether your lordship may have jurisdiction to do any act at this hour. Under those circumstances, I don't think I would be justified if I did not state that I am of opinion the court ought to adjourn until Monday morning.

Court---I shall certainly not discharge the jury against the will of the counsel for the crown and the traversers.

Mr. Moore---We are not expressing any opinion whatever on the subject, my Lord.

Court---I know you are not actually doing so, but then you don't consent to it.

Mr. Sheil---We are not entering into the question at all ; the Attorney General has taken his course, and we have nothing to say to it.

Court---Then, all I can do is to have the jury made as comfortable as possible, and I shall adjourn the court to eight o'clock on Monday morning. I suppose that is the best arrangement I can make.

Mr. Henn---Eight o'clock, my lord.

Court---Suppose we say nine. Call out the jury.

Mr. Monahan---My lord, on the part of one of the traversers, I beg to object to it, as it is now after twelve o'clock on Saturday night ; and I respectfully submit that your lordship has no power to do any judicial act now.

Court---I have not my note-book here, but I shall remember your objection, Mr. Monahan, though I don't think it likely that you'll hear anything more of it.

Mr. Floyd (one of the jurors) here came into the box and said, " My lord, are we wanted ?"

Court---You are.

Mr. Floyd---We were sent for twice before, and we were not wanted.

Court---Well, you have been sent for now for the third time, and you are wanted (laughter).

All the jury then came into the box.

Court---Gentlemen, I have a very unpleasant communication to make to you. The hour of twelve o'clock having now arrived, I am informed by the learned counsel for the crown that my jurisdiction to receive your verdict is at an end for this night, and until Monday morning. I am very much distressed at it ; but it has resulted from that circumstance, and you must now remain in your jury-room, and give me your verdict on Monday morning, until which time the court must be adjourned. This is a fatality arising out of the hour of twelve having arrived without the verdict being ready ; and you will now retire to your chamber, where I have instructed the sheriff to provide you with every accommodation. Indeed, he requires no instruction, for he is most anxious to do all he can to make you comfortable. There will be sleeping accommodation provided for you, and every other accommodation you may require, and the high sheriff will, to-morrow, at a proper hour, accompany you to divine service, and accompany you back, but you cannot separate out of his custody. You will remain in your room up to the period to attend divine service, if you choose to attend it, and on Monday morning I, or some of the other judges of this court will be ready to receive your verdict. I am extremely sorry to be obliged to announce this to you, but there is no alternative.

Mr. Monahan---I submit to your lordship that you have now no power to adjourn, or to do any other official act at this hour.

His lordship received the objection, and the court adjourned to nine o'clock on Monday morning.

## TWENTY-FOURTH DAY.

## "AMENDED" VERDICT.

This was the closing day of the monster trial. The court sat at nine o'clock ; but long before that hour multitudes had congregated in front of the court, and along the quays, with marked anxiety in every countenance. About five minutes before nine Mr. O'Connell arrived ; the honorable gentleman was accompanied by Mr. Smith O'Brien, M.P., and other gentlemen. The other traversers arrived about the same time. Long before nine o'clock the court was extremely crowded. Mr. Studdart, one of the police magistrates, and a large body of police, were in attendance outside the court ; but there was no occasion for their services. The demeanour of the people was most peaceable and orderly.

Shortly after nine o'clock the Chief Justice, Judge Burton, and Judge Crampton, took their seats upon the bench.

Mr. Justice Crampton then said—The Chief Justice and my brother Burton not having been present at the last adjournment of the court, it is, perhaps, right that I should state what took place on that occasion. The jury having retired on Saturday evening, I remained for a considerable time in my room, and having received an intimation from the jury, that they would not be ready for an hour or so, I adjourned the court to nine o'clock. At nine I returned, and found that the jury were not yet ready ; and having remained a considerable time waiting in my room, I sent the sheriff to the jury to know whether there was a likelihood of their agreeing. In a short time, I think after eleven, I returned to the court ; and having communicated again with the jury, through the sheriff, I had them called out, when they came into the box with a verdict, which they handed to the Clerk of the Crown. The verdict was, however, informal and irregular, and as such I could not receive it. The jury were manifestly perplexed about the first and second counts, although they stated that they were perfectly agreed as to their verdict. I explained to them the course they should adopt as to the form of the verdict ; but I did not give sufficient explanation on the subject. The jury then retired, and in a short time after the Attorney General stated that it was then after twelve o'clock, and being Sunday morning the verdict should not be received ; and, accordingly, no consent having been given by the traversers that the verdict should be received, I adjourned the court until nine o'clock to-day. These were the circumstances which I wished to explain. Whilst waiting for the jury to prepare their verdict, I was engaged in drawing up issues in the form in which I thought they should be submitted to the jury. There was originally but one issue sent up to the jury ; but that, I think, was insufficient, for there are, in reality, five distinct issues in the first count. They should have been sent up in a more specific form ; and, accordingly, I prepared them, and will read them before the jury come out. [Here his lordship read the several issues into which the eleven counts in the indictment were subdivided.] Now, he considered that the jury should say which, if any, of the defendants were guilty, and which not guilty, of those distinct charges in the first count. Then, with respect to the second, it was precisely the same, only that it did

not state the overt acts, as they should give the same finding on it as on the first. In the third count there were also five issues, which were substantially the same, although there were some slight technical differences not at all material, which could not affect the finding. In the fourth count there were four issues—

Attorney General (reading from a paper, and following his lordship ;) only three issues, my lord.

Mr. Justice Crampton (looking again to his paper)---Oh, you are right, Mr. Attorney. In the fourth count there are only three issues, which are the same as those in the first, with the exception of charges two and three. The fifth contained only three, and was also the same as the first, except in the first and second charges. The sixth only contained one charge, the same as number four in the first count. Then the seventh count was the same, only that it introduced the words "unlawfully and seditiously." The eighth, ninth, and tenth counts proved the same, with some technical differences, and the eleventh, was in a distinct form, and called on the jury to say whether the defendants, or any of them, collected large numbers of persons to assemble to intimidate the government, in order to compel them to make certain changes in the constitution of the House of Parliament. Now, he (Judge Crampton) thought that the jury would have no difficulty, if the issues were sent up to them in the form which he had read, instead of the general form with which they had been furnished; and he would suggest that they should be called out, in order that they might get the proper directions to say which of the defendants were guilty, and which not guilty, of the several specific charges.

The Chief Justice directed the sheriff to have the jury called into court, and

Judge Crampton proceeded to mention that an objection had been taken upon Saturday evening, in the absence of the other members of the court, by Mr. Henn, to the effect that no evidence was given of the acts and proceedings laid in the indictment having taken place within the county of the city of Dublin, which he submitted should have been proved in order to sustain it. Mr. Monahan also made an objection, which he would inform the court of, namely, that inasmuch as it was then (when he made the objection) Sunday morning---that the court had no further power to proceed with the case, or do any judicial act, and that, therefore, the trial should lapse until the first day of Easter Term.

The Deputy Clerk of the Crown then called over the traversers, all of whom answered to their names; and then proceeded to call the names of the jury, who had first entered the court. When they had all appeared,

Judge Crampton informed them that he was directed by the court to read the different findings, to guide them as to the mode in which they should sign the issue paper-sent up to them. The learned judge then read over the specified charges in the different counts which he had previously read, and handed them to the foreman of the jury, who stated that he believed that he and his fellow-jurors had themselves done what his lordship had suggested.

The jury then, at half-past nine o'clock, again retired to their room, and, after an absence of a quarter of an hour, again came into court.

The Foreman said that they had not had room enough left on the



issue-paper to insert their finding immediately between each count, but they had written it on the last page with references. His fellow-jurors had requested him to ask whether they were to receive compensation for their time.

The Deputy Clerk of the Crown-- Please to hand down the issue.

The Foreman then handed down the issue-paper.

Mr. Moore, Q.C., said that before the verdict was read, he wished it to appear on their lordships' notes that they (the counsel for the traversers) conceived there was a mis-trial, by reason of a misnomer of one of the jury, who, when called on, answered as John Jason Rigby, but who appeared on the panel as John Rigby. They contended that, under these circumstances, there was a mis-trial by reason of the misnomer.

The Attorney General said, that the juror had been sworn as John Rigby, the name which appeared on the panel, of which particular notice had been taken at the time by the counsel for the crown.

The Deputy Clerk of the Crown then proceeded to read the verdict. The following is a copy of the several issues sent up to the jury, and the finding in each :---

Gentlemen---Your issue is to try and inquire whether Daniel O'Connell, John O'Connell, Thomas Steele, Thomas Matthew Ray, Charles Gavan Duffy, John Gray, Richard Barrett, and the Rev. Thomas Tierney, or any, or which of them, be guilty of any, or which, of the following offences of which they stand indicted or not :

First and Second Counts, for unlawfully and seditiously conspiring to raise and create discontent and disaffection amongst the Queen's subjects, and to excite such subjects to hatred and discontent of, and to unlawful and seditious opposition to the government and constitution, and to stir up jealousies, hatred and ill-will between different classes of her Majesty's subjects, and especially to promote amongst her Majesty's subjects in other parts of the United Kingdom, especially in England, and to create discontent and disaffection amongst divers of her Majesty's subjects serving in the army, and to cause, and aid in causing, divers subjects unlawfully and seditiously to meet and assemble together in large numbers, at various times, and at different places within Ireland, for the unlawful and seditious purpose of obtaining, by means of the intimidation, to be thereby caused, and by means of the exhibition and demonstration of great physical force at such meetings, changes and alterations in the government, laws, and constitution, as by law established, and to bring into hatred and disrepute the courts by law established in Ireland for the administration of justice, and to diminish the confidence of her Majesty's subjects in the administration of the law therein, with the intent to induce them to withdraw the adjudication of their differences with, and their claims upon, each other, from the cognisance of the courts of law, and subject them to the judgment and determination of the tribunals to be constituted and contrived for the purpose.

Guilty---Daniel O'Connell, Richard Barrett, and Charles Gavan Duffy, omitting the words [unlawfully and seditiously] before the words [to meet and assemble]. Not Guilty---Daniel O'Connell, Richard Barrett, and Charles Gavan Duffy, as to the words [unlawful and seditiously] before the words [to meet and assemble]. Guilty---John O'Connell, Thomas Steele, Thomas Mathew Ray, John Gray, omitting the words [unlawfully and

seditionously] before the words [to meet and assemble] and omitting the words [and to excite discontent and disaffection amongst divers of her Majesty's subjects serving in the army].

Not Guilty—John O'Connell, Thomas Steele, Thomas M. Ray, and John Gray, as to the words [unlawfully and seditiously] before the words [to meet and assemble] and not guilty as to the words [to excite discontent and disaffection amongst divers of her Majesty's subjects serving in the army.]

Guilty—The Rev. Thomas Tierney, from the commencement, so far, and including the words [especially in England,] and not guilty of the remainder of the first and second counts.

Third Count—For unlawfully and seditiously conspiring to raise and create discontent and disaffection amongst the Queen's subjects, and to excite such subjects to hatred and contempt of, and to unlawful and seditious opposition to, the government and constitution, and to stir up jealousies, hatred, and ill-will between different classes of her Majesty's subjects in Ireland, feelings of ill-will and hostility amongst divers of her Majesty's subjects in other parts of the united kingdom, especially in England, and to excite discontent and disaffection amongst divers of her Majesty's subjects serving in the army, and to cause and aid in causing divers subjects to meet and assemble together in large numbers at various times and in different places within Ireland for the unlawful and seditious purpose of obliging, by means of the intimidation to be thereby caused, and by means of the exhibition and demonstration of great physical force, at such meetings, changes and alterations in the government, laws, and constitution as by law established; and to bring into hatred and disrepute the courts by law established in Ireland for the administration of justice, and to diminish the confidence of her Majesty's subjects in the administration of the law therein, with intent to induce her Majesty's subjects to withdraw the adjudication of their differences with, and claims upon each other, from the cognisance of the courts of law, and subject the same to the judgment and determination of other tribunals to be constituted and contrived for that purpose.

Guilty—Daniel O'Connell, Richard Barrett, Charles Gavan Duffy, John O'Connell.

Guilty—John O'Connell, Thomas Steele, Thomas Mathew Ray, and John Gray, omitting the words [and to excite discontent and disaffection amongst divers of her Majesty's subjects serving in the army].

Not Guilty—John O'Connell, Thomas Steele, Thomas M. Ray, and John Gray, as to the words [and to excite discontent and disaffection amongst divers of her Majesty's subjects serving in the army].

Guilty—The Rev. Thomas Tierney, from the commencement, so far, and including the words [especially in England].

Not Guilty—The Rev. Thomas Tierney, as to the remainder of this count.

Fourth Count—Conspiring to raise : n  
amongst the Queen's subjects, and to ex  
contempt of, and to unlawful and sedi t sio  
and constitution, and also to stir up j , i  
the different classes of said subjects, i y n  
the subjects of Ireland, feelings of 1 y

subjects in other parts of the United Kingdom, and especially in England, and to cause, and aid, in causing, divers subjects to meet and assemble in large numbers at various times and different places in Ireland, for the unlawful and seditious purpose of obtaining, by the means of the intimidation to be thereby caused, and by means of the exhibition and demonstration of great physical force at such meetings, changes in the government and constitution as by law established.

Guilty---Daniel O'Connell, John O'Connell, T. M. Ray, Thomas Steele, John Gray, C. G. Duffy, and Richard Barrett.

Guilty---Rev. Thomas Tierney, from the commencement, and so far as including the words [especially in England.]

Not Guilty---Rev. Thomas Tierney of the remainder of this count.

Fifth Count---For unlawfully conspiring to raise and create discontent and disaffection amongst the subjects, and to excite the subjects to hatred and contempt of, and unlawful and seditious opposition to, the government and constitution, and also to stir up jealousies, hatred, and ill-will between different classes of the subjects, and especially feelings of hostility and ill-will against her Majesty's subjects in England.

Guilty---Daniel O'Connell, John O'Connell, T. M. Ray, Thomas Steele, John Gray, Charles Gavan Duffy, Richard Barrett, and Rev. Thomas Tierney.

Sixth Count---For unlawfully conspiring to cause, and aid in causing, divers subjects to meet and assemble in large numbers at various times, and at different places in Ireland, for the unlawful and seditious purpose of obtaining by the exhibition of great physical force, at great meetings, changes and alterations in the government, laws, and constitution, as by law established.

Guilty---Daniel O'Connell, John O'Connell, T. M. Ray, Richard Barrett, Thomas Steele, John Gray, and C. Gavan Duffy.

Not Guilty---Rev. Thomas Tierney.

Seventh Count---For unlawfully conspiring to cause, and aid in causing, divers subjects of the Queen to meet in large numbers at various times, and at different places in Ireland, for the unlawful and seditious purpose of obtaining, by means of the intimidation to be thereby caused, and by means of the exhibition of great physical force at such meetings, changes and alterations in the government, laws, and constitution of this realm as by law established, and especially, by the means aforesaid, to bring about and accomplish a dissolution of the legislative union now subsisting between Great Britain and Ireland.

Guilty---Daniel O'Connell, John O'Connell, Thomas Mathew Ray, Richard Barrett, Thomas Steele, John Gray, Charles Gavan Duffy.

Not Guilty---Rev. Thomas Tierney.

Eighth Count---For unlawfully conspiring to bring into hatred and disrepute the tribunals by law established in Ireland, for the administration of justice, and to diminish the confidence of her Majesty's subjects in Ireland, in the administration of the law therein, with intent to induce the subjects to withdraw the adjudication of their differences with, and claims upon each other, from the cognisance of the tribunals by law established, and to submit the same to the judgment and determination of other tribunals to be constituted and contrived for that purpose.

Guilty---Daniel O'Connell, John O'Connell, John Gray, Thomas Steele, Thomas Mathew Ray, Charles Gavan Duffy, and Richard Barrett.

Not Guilty---The Rev. Thomas Tierney.

Ninth Count---For unlawfully conspiring to bring into hatred and disrepute the tribunals by law established in Ireland, for the administration of justice, to diminish the confidence of her Majesty's subjects in Ireland in the administration of the laws therein, and to assume and usurp the prerogative of the crown in the establishment of courts for the administration of the law.

Guilty---Daniel O'Connell, John O'Connell, Thomas Mathew Ray, Thomas Steele, Charles Gavan Duffy, Richard Barrett.

Not Guilty---Rev. Thomas Tierney.

Tenth Count---For unlawfully conspiring to bring into hatred and disrepute the tribunals by law established in Ireland, for the administration of justice, and to diminish the confidence of her Majesty's subjects in Ireland, in the administration of the law therein.

Guilty---Daniel O'Connell John O'Connell, John Gray, Thomas Mathew Ray, Richard Barrett, Charles Gavan Duffy, and Thomas Steele.

Not Guilty---Rev. Thomas Tierney.

Eleventh Count---For unlawfully conspiring to raise and procure large numbers of persons to meet together in divers places at divers times in Ireland, and by means of unlawful, seditious, and inflammatory speeches and addresses, to be made and delivered at the said several places on the said several times, and also, by means of the publishing, and causing to be published to and amongst her Majesty's subjects, divers unlawful, malicious, and seditious writings and compositions to intimidate the lords spiritual and temporal, and the commons of the parliament of the United Kingdom, and thereby to affect and bring about the changes and alterations in the law and constitution of this realm as by law established.

Guilty---D. O'Connell, J. O'Connell, T. M. Ray, John Gray, Thomas Steele, Richard Barrett, and C. G. Duffy.

Not Guilty---Rev. Thomas Tierney.

Signed by the foreman, for self and fellow jurors.

The reading of the verdict having been concluded.

The Chief Justice---I suppose I need not detain the jury further.

The Attorney General---No my lord, but your lordship will record the verdict.

The Chief Justice, addressing the jury, said---Gentlemen, the pains and attention you have paid to this case from the beginning to the end---at great inconvenience and loss of time, in being prevented from following your usual pursuits for nearly a month in this most unprecedented case---are certainly deserving the highest praise; but I am very sorry the court have no power to order you compensation. The act of parliament does not warrant it; there was no law made to meet the necessities of such an extraordinary case as this has been, and it is a duty imposed on every member of society, who must all take their turn when called on. I do hope that all other jurors who may hereafter be called on to attend, will follow the example you have pointed out to them in your attention during the whole progress of this trial. It is very creditable; but I am sorry to say, that all I can do is to thank you for your attendance.

The jury were then discharged, and conveyed to their respective residences, in covered cars, provided by the sheriff.

Mr. Moore, Q.C.---I have now to apply, my lords, and I do not anticipate any objection on the part of the crown, that the traversers should be furnished with a copy of the finding handed in by the jury.

Chief Justice---I do not suppose there can be any objection; the Clerk of the Crown will furnish you with a copy.

The court then adjourned to the first day of next Term.



NOW PUBLISHING IN MONTHLY PARTS,  
 BY DUFFY, ANGLESEA-STREET,  
 AT ONE SHILLING EACH.  
 WITH ETCHINGS BY EMINENT ARTISTS,  
**BOB NORBERRY;**  
 OR  
**SKETCHES FROM THE NOTE-BOOK OF  
 AN IRISH REPORTER.**

 This Work will be completed in Ten Numbers.

The following are some of the testimonials of the Press, with regard to the numbers that have already appeared:—

"The scarcely concealed political feeling to which we so distinctly alluded, as characterising the first number, is here permitted (No. 5) to be unequivocally visible, and yet without at all interfering with the thread of the fiction. This it is, independent of their own intrinsic merits, that lends such a charm to nearly all the prose and poetic effusions of Moore; and this it is, too, that, no doubt, lends to Bob Norberry a large share of the popularity which, we are happy to hear, it enjoys, as it certainly deserves, among the countrymen of the author."—*Liverpool Journal*.

"The fifth number of 'Bob Norberry' has just appeared, and more than maintains the character for talent accorded to its predecessors."—*Dublin Evening Mail*.

"There is considerable interest in the story, which is a true picture of Irish life and character in every grade of society. The fifth number is the best that has appeared; the author improves as he proceeds with his story."—*Dublin Evening Post*.

"There is true Irish talent, and a knowledge of Irish character, perceptible in this work."—*Enniskillen Chronicle*.

"'Bob Norberry' is the rival of such fellows as 'Harry Lorrequer,' and 'Martin Chuzzlewit.' Had we a bosom friend, and that he would take our advice, we would recommend him to become instantly acquainted with the facetious Bob."—*Dublin World*.

"The story is full of interest, and the various characters, particularly that of the old miser, are sketched with vigour and effect."—*Dublin Monitor*.

"The writer evidently possesses an intimate knowledge of the Irish character, and the administration of the law in this country."—*Dublin Weekly Register*.

"'Bob Norberry,' a monthly work got out by Duffy of Dublin, after the fashion of Dickens' works in London. It is written in a pleasing, unaffected style, and the author evidently possesses talents capable of producing a clever work."—*Examiner*.

"The writer has a faculty of sketching characters and incidents with dramatic effect, and occasionally with no mean power."—*Warder*.

"Independent of the spirit of nationality perceptible through the pages of 'Bob Norberry,' it possesses intrinsic merits which ought to command for it extensive circulation."—*Pilot*.

"Perhaps there never was a period when works of a genuine Irish stamp were more required than in this, and that want has been supplied by Mr. Duffy, in the publication of 'Bob Norberry.'"—*Galway Vindicator*.

"The occasional shifting of the scenes gives great interest to the work, and there is a vivid truthfulness in some of the sketches."—*Evening Packet*.

"Truly, the story is powerfully told."—*Leinster Express*.

"In the work before us, we see faithful likenesses of men, and women too, as they have lived, and felt, and acted, and expressed themselves—whether for good or evil purpose—in wisdom, or in folly; in sincerity, or deception; in the simple honesty of a guileless heart, or the malignant promptings of a spirit abandoned to evil. It is an emanation of Irish talent guided in the proper line by sound Irish feeling."—*Wexford Independent*.

"We assure our readers that a perusal of the work will not contradict the high opinion we have expressed of its merits."—*London Morning Advertiser*.

"The work, as far as it has gone, promises well."—*Tablet*.

"It is a work of undoubted merit."—*Limerick Reporter*.

"It is a clever work, which increases in interest as the story proceeds."—*Weekly Dispatch*.

"On the whole, we can recommend this work to our readers, as a highly useful and interesting periodical."—*Tuam Herald*.





